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Official Report of Debates (Hansard)

SP-20

Journal des débats (Hansard)

SP-20

Standing Committee on
Social Policy

Comité permanent de
la politique sociale

Modernizing Ontario's Municipal
Legislation Act, 2017

Loi de 2017 sur la modernisation
de la législation municipale
ontarienne

2nd Session
41st Parliament
Monday 1 May 2017

2^e session
41^e législature
Lundi 1^{er} mai 2017

Chair: Peter Tabuns
Clerk: Jocelyn McCauley

Président : Peter Tabuns
Greffière : Jocelyn McCauley



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Toronto ON M7A 1A2
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICY

Monday 1 May 2017

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
LA POLITIQUE SOCIALELundi 1^{er} mai 2017*The committee met at 1400 in room 151.*MODERNIZING ONTARIO'S MUNICIPAL
LEGISLATION ACT, 2017LOI DE 2017 SUR LA MODERNISATION
DE LA LÉGISLATION MUNICIPALE
ONTARIENNE

Consideration of the following bill:

Bill 68, An Act to amend various Acts in relation to municipalities / Projet de loi 68, Loi modifiant diverses lois en ce qui concerne les municipalités.

The Chair (Mr. Peter Tabuns): Good afternoon, everyone. I call the committee to order to resume clause-by-clause consideration of Bill 68.

When the committee was adjourned last Tuesday, we were at section 56 of schedule 1 to the bill. We have a government motion before us.

Mr. Rinaldi, I assume you want to move this motion.

Mr. Lou Rinaldi: I do. Just bear with me here.

Mr. Percy Hatfield: It's 19, Lou.

Mr. Lou Rinaldi: All right. We've got the A-Team here now, so we're good—or not quite good. Close.

I move that subsections 373(3) and (3.1) of the Municipal Act, 2001, as set out in subsection 56(3) of schedule 1 to the bill, be amended by striking out “the crown” wherever it appears and substituting in each case “the crown in right of Ontario”.

Chair, if I may?

The Chair (Mr. Peter Tabuns): Yes, please, Mr. Rinaldi.

Mr. Lou Rinaldi: Obviously, I would encourage support of this. The motion would add the words “in right of Ontario,” to make clear the authority for municipalities to apply the tax sale process as it pertains only to the land that is vested in the provincial crown. It's really a technical clarification motion.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Hardeman.

Mr. Ernie Hardeman: I guess this must be another example of the rush to create the bill, and they put the wrong wording in. But with that, we'll support the motion.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none—did you want to speak?

Mr. Lou Rinaldi: No, I'm ready to vote. Sorry.

The Chair (Mr. Peter Tabuns): You're ready to vote.

Mr. Lou Rinaldi: I was anxious.

The Chair (Mr. Peter Tabuns): You're very eager.

The committee is ready to vote. All those in favour, please show. Opposed? It is carried.

Shall schedule 1, section 56, as amended, carry? Carried.

Members of the committee, we now have schedule 1, sections 57 to 62, where I have no amendments. I am proposing to put them through as a group. Is there any problem with that?

Mr. Ted McMeekin: Good idea, Chair.

The Chair (Mr. Peter Tabuns): Excellent. Mr. Hardeman?

Mr. Ernie Hardeman: I would just ask if you would reduce it to section 61. I'd like to make a comment on 62.

The Chair (Mr. Peter Tabuns): Oh, yes. Not a problem.

With that, shall schedule 1, sections 57 to 61, inclusive, carry? Carried.

We go on to schedule 1, section 62. Mr. Hardeman?

Mr. Ernie Hardeman: I just wondered if it's rather a short time for the clearing-up of money. In fact, it's one of the areas where—with this section, it's money that used to be available to municipalities but will no longer be, unless there's a certain time that they get to it.

We suggest that maybe the government is being a little hasty with cutting it down to that time, recognizing that the money at that point doesn't belong to anyone, and it's just by legislation that, all of a sudden, it belongs to the government.

The Chair (Mr. Peter Tabuns): Did you want to speak further? You're done?

Mr. Ernie Hardeman: No, that's all I wanted.

The Chair (Mr. Peter Tabuns): Any other comments on this? People are ready to vote?

Shall schedule 1, section 62 carry? No opposition? It is carried.

We go on now to government motion number 20 in schedule 1, section 63. Mr. Rinaldi? Mr. McMeekin.

Mr. Ted McMeekin: I move that subclauses 379(7)(b)(i) and (ii) of the Municipal Act, 2001, as set out in subsection 63(5) of schedule 1 to the bill, be amended by striking out “the crown” wherever it appears and substituting in each case “the crown in right of Ontario”.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McMeekin. Did you want to speak to that?

Mr. Ted McMeekin: No, Mr. Rinaldi would be the—

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, please go ahead.

Mr. Lou Rinaldi: Sure. Thanks, Chair. This is really the same as motion 19. It's to clarify that it's the Ontario crown.

The Chair (Mr. Peter Tabuns): Fair enough. Any other discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I know we've had a number of instances of this change. Again, I'm not objecting to it. I was wondering if there is an explanation. What's the difference between the crown and the crown in right of Ontario?

Mr. Lou Rinaldi: If I may, Chair?

The Chair (Mr. Peter Tabuns): Yes, please. Mr. Rinaldi.

Mr. Lou Rinaldi: To the best of my belief—and this is what the legal folks tell us—when it's just referred to as the crown, it can be misinterpreted with the federal crown. So we're specifying that it's the Ontario crown.

Mr. Ernie Hardeman: They have a different crown?

Mr. Lou Rinaldi: Well, I think if somebody's appealing or objecting to something, you want to specify to which level of government.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Mr. Hardeman.

Mr. Ernie Hardeman: The only reason I ask is because obviously, they don't have a different crown. The crown is both federal and provincial. Queen Elizabeth is only one person.

The Chair (Mr. Peter Tabuns): So you say. Any further questions? That's it? The committee is ready to vote? All those in favour of government motion 20, please indicate. Opposed? It is carried.

We now go to the vote on the section as a whole. You're ready to vote? Shall schedule 1, section 63, as amended, carry? No opposition? It is carried.

We now go to PC motion number 21. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsections 380(8) and (9) of the Municipal Act, 2001, as set out in subsection 64(6) of schedule 1 to the bill, be struck out and the following substituted:

"Forfeiture

"If no person makes an application under subsection (4) within 10 years after the payment into court under subsection (2), the amount paid into court, together with accrued interest, is deemed to be forfeited,

"(a) if, at the time of the registration of a tax arrears certificate, the land was vested in the crown because of the circumstances described in subsection (1.1), to the crown in right of Ontario, and the public guardian and trustee may be paid that amount in the name of the crown on filing a written request for payment out of court with the accountant of the Superior Court of Justice in the form provided by the accountant; or

"(b) in any other circumstance, to the municipality.

"Same

"(9) If, after the court determines entitlements under subsection (7), there remains any amount paid into court 10 years after the payment into court under subsection (2), the remaining amount, together with accrued interest, is deemed to be forfeited,

"(a) in the circumstances described in clause (8)(a), to the crown in right of Ontario, and the public guardian and trustee may be paid that amount in the name of the crown on filing a written request for payment out of court with the accountant of the Superior Court of Justice in the form provided by the accountant; or

"(b) in any other circumstance, to the municipality."

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Mr. Hardeman, under the word "Forfeiture" in front of you, you didn't say the number "(8)". I am assuming that you meant to say that.

Mr. Ernie Hardeman: In "Forfeiture," "(8)"? I meant to say it, yes.

The Chair (Mr. Peter Tabuns): You meant to say that? Okay.

If you'd like to speak to it, please proceed.

Mr. Ernie Hardeman: Yes, thank you, Mr. Chair. Under Bill 68, municipalities are no longer eligible for many proceeds from tax arrears sales. This amendment would restore that right to apply for proceeds that have not been claimed.

Our municipalities are struggling to make ends meet and to deliver the services their residents depend on. We should be looking at ways to reduce their burdens, but instead the government is adding additional cost and, buried in this bill, removing some of the revenue that they previously received from tax arrears sales. While most municipalities don't receive a lot of money from these sales, it is still revenue that is being taken from them with no public announcement, no consultation and no explanation.

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The city of Toronto passed a motion stating that it "vigorously objects to proposed revisions of Bill 68 that would see excess tax sale proceeds go to the court for 10 years after which are forfeited to the crown."

The township of O'Connor said in their submission, "The township's first area of concern relates to the fact that many of the proposals—and, in particular the one that is addressed further on in this correspondence—were not subject to appropriate ... consultation."

"When the province entered into consultation with respect to proposed changes to municipal legislation, none of the consultation questions related to tax sales processes or revenues. Municipalities and members of the public participated in good faith in the consultation and review process, but were not given an option to provide input on these matters, now before the provincial Legislature."

I think it's the same thing that I mentioned in the previous one. This is money that comes out of a tax arrears sale that is over and above the value owed on taxes, but the money has no new home. It may have been a corporation that has been dissolved or it may be a

person who is deceased, in fact, and has no heirs, so this is money that has no real home. Up until now, that home was the municipality. This amendment would change that so that all of the money left over goes to the province of Ontario without consultation with the municipalities.

I think it's inappropriate to do it that way. If it is the right thing to do, at least we should have had that discussion with municipalities and seen what the impact would be, because I'm sure, as we've seen in a number of other areas of this bill, that the government has done very little consultation or very little study as to what the impact of some of these changes will be when they implement them. If the municipalities tell us that they haven't been spoken to about it, you can bet that the government doesn't know what the impact will be, and I think that's the wrong way to approach putting legislation into place.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield and then Mr. Rinaldi.

Mr. Percy Hatfield: I'll be supporting the motion. As I recall, this was strongly recommended by the city of Toronto, and it ensures that the proceeds of tax sales, with specified exemptions, go to the municipality. I know—or I read in the paper. I guess I shouldn't say, "I know." But from what I read in the media these days, the Premier and the Liberal government seem to be somewhat at odds, on various fronts, with the city of Toronto. This doesn't seem to be a hill that somebody should fight and die on. It seems pretty cut and dry. I would expect that the government, almost as a palm leaf, extending that hand of friendship, would see their way fit to approve this request—a very strong request—from the city of Toronto.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: How quickly things change. A minute ago we were against toll roads, but now we're buddy-buddies.

I would say this to the member's motion: The municipality, after the sale is completed—and hopefully there is enough money generated from the sale. The first body that has access to the money is the municipality, to make it whole. The municipality gets all of its taxes and any expenses incurred. And then what the proposed legislation says is that it puts that money in trust with the crown of Ontario for 10 years. Sometimes, you know, family chains lose connection. After those 10 years expire, the legislation would suggest holding it for another 10 years after that, just in case somebody does come out of the woodwork.

We've got to remember that, hopefully, the municipality is out no money. The intent of the tax sale is to retrieve what's owed to them. I remember that back in my municipal days there weren't a lot in my municipality, but maybe one every four or five years or whatever the case may be. So the municipality will be left whole.

We just want to give ample opportunity—whether it's a corporation that was dissolved or whether it's a private piece of land or home or whatever the case may be, that they be given ample opportunity. So I recommend not supporting this as it's written.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: In reply to the parliamentary assistant, I think I heard him agreeing with me up till about halfway through my presentation, that in fact the first money that comes out of a tax arrears sale goes directly to the municipality to not only pay for all back taxes, but any expenses they have incurred in order to facilitate this. What we're talking about is the leftover with no home. It belongs to no one. At that point in time, there is no one who is owed that money, because it's either a corporation that has dissolved over time or it belongs to someone who is deceased with no heirs or successors.

From there, the parliamentary assistant suggests, "Well, we're just doing this so there's a longer time that somebody could come out of somewhere and claim the residual." I really believe that if that is the case, there's no reason why this legislation couldn't include that the municipality must keep it in escrow for that length of time before they can actually use it. But it doesn't change the fact that up until now, without the amendments to the bill, this money is going to go to the province if there is no home found for it before the deadline, where before it went to municipalities.

That's why the city of Toronto strongly opposes that amendment, and I think that's why we are putting forward this amendment to deal with that, to keep the status quo, that if there is money left over—now, if there was not enough money to cover the tax sale, the province isn't going to step in and make up the difference. So to say, "We're going to sell it in a tax sale, and if it gets over the tax sale price, then the province gets the money, but if it goes under the tax sale price, the municipalities will have to eat that"—the province doesn't step in at all for a tax sale that doesn't recover enough. The municipality keeps up to what's owed or what the value of the property is. If the property sells for half the tax arrears, they're out half the taxes.

It seems to me that you're giving municipalities all the risk on the ones that go negative and the province is still wanting to hold on to or start to take it if there's a profit, and I think that's wrong.

With that, I'll conclude my debate.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Mr. Rinaldi said that back in his municipal days, an issue such as this might have come up every four or five years, and I appreciate that, based on the population of his town. Compare that to the city of Toronto. It could happen in Toronto every four or five days, as opposed to every four or five years, so there are financial resources at stake.

I guess if Toronto just requested or just recommended, it wouldn't, to me, have the gravity that it seems to be taking on. But when they strongly recommend—I'm not a diplomat, but I understand that, in diplomatic language, if somebody strongly recommends or strongly suggests, it takes it to the next level and immediate action is required at that point, I guess.

I would think, again—because municipalities, when it comes to tax dollars, only have nine or 10 cents on the dollar to work with when we're talking one-third, one-third, one-third funding. So the budget limitations on a municipality are much different than on a provincial government or a federal government. If they see a need for this change, they must have done some thought, some research into it, and decided that they strongly recommend that they be given first dibs, if you will. I just think it's not that big a deal and we should give it to them.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. I have Mr. Fraser.

Mr. John Fraser: Just so I understand this, this is a clause that deals with properties that are sold or abandoned for tax purposes for which the public guardian and trustee is partly responsible. Am I correct? These are properties that—have I got that right?

Mr. Lou Rinaldi: No. These are tax sales.

Mr. John Fraser: They're tax sales. I understand. So it's a tax sale. The proceeds from that tax sale are held for 10 years by—

Mr. Lou Rinaldi: By the crown.

Mr. John Fraser: By the crown.

The Chair (Mr. Peter Tabuns): Mr. Fraser, you're asking a question of someone?

Mr. John Fraser: I'm asking that question—I just wanted to understand that from that perspective, if somebody has an answer for me.

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The Chair (Mr. Peter Tabuns): I'll turn it over to Mr. Hatfield, and if there's anyone else who wants to speak to it, I'll give them the floor as well.

Mr. Percy Hatfield: Well, I'll just point out to Mr. Fraser and the other members that in the old days of municipalities, you couldn't even list or register property that went in tax arrears for three years. This bill changes that to two years in default, then you can be listed. There are going to be more of these coming up as opposed to fewer coming up, so it becomes more of an issue.

The Chair (Mr. Peter Tabuns): Thank you. Any further discussion before we go to the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Fraser, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to the section as a whole. Shall schedule 1, section 64 carry?

Mr. Ernie Hardeman: Recorded vote?

The Chair (Mr. Peter Tabuns): No. I asked earlier. Once I've asked if it's carried, you're too late, Mr.

Hardeman. That's why I ask if people are ready to vote, and I said we're now going to go to the vote on this, and then I called for the vote. I don't mind having it recorded, but you need to do it before I actually say "carry."

Carry? Opposed? It is carried.

We now have a number of sections where I have no amendments: sections 65 to 69 inclusive. I'd like to bundle those. Is the committee agreeable to that?

Mr. Ernie Hardeman: Excuse me.

The Chair (Mr. Peter Tabuns): Sorry, Mr. Hardeman? You're agreeable?

Mr. Ernie Hardeman: Yes.

The Chair (Mr. Peter Tabuns): Shall schedule 1, sections 65 to 69, inclusive, carry? Opposed? There are none. They are carried.

Colleagues, my apologies to all of you; I missed 21.1—no. No, I didn't. It's coming up in 69.1.

Mr. Hatfield.

Mr. Percy Hatfield: I move that schedule 1 to the bill be amended by adding the following section:

"69.1 The act is amended by adding the following section:

"“Restriction, fees for complaints re accountability

"“392. No fee or charge shall be imposed on a person for filing a complaint to,

"“(a) the integrity commissioner of a municipality,

"“(b) the auditor general of a municipality;

"“(c) the ombudsman of a municipality;

"“(d) the registrar for a municipality, as referred to in section 223.11; or

"“(e) the investigator for a municipality, as referred to in subsection 239.2(1).”"

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield, and I'm sorry to say, committee members, that I am ruling this amendment out of order, as it is in my opinion unrelated to the subject matter of the bill or to the clause under consideration.

And with that, next we have schedule 1, sections 70 to 72, where I have no amendments. Mr. Hardeman?

Mr. Ernie Hardeman: I'd like 70 separate.

The Chair (Mr. Peter Tabuns): Absolutely. We will now go to schedule 1, section 70. Mr. Hardeman, if you would like to speak to it?

Mr. Ernie Hardeman: No, but I would like a recorded vote.

The Chair (Mr. Peter Tabuns): Ah, okay. Not a problem. So we have schedule 1, section 70 with a recorded vote. Shall schedule 1, section 70 carry?

Ayes

Dhillon, Fraser, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): Abstentions? It is carried.

We now, then, have sections 71 and 72. You are agreeable that they should be bundled? Shall schedule 1, sections 71 and 72—

Mr. Ernie Hardeman: Recorded vote, please.

The Chair (Mr. Peter Tabuns): Recorded vote called for.

Ayes

Coe, Dhillon, Fraser, Hardeman, Hatfield, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): Opposed? They're carried.

We now go to PC motion number 22.

Mr. Ernie Hardeman: I move that subsection 418.1(5) of the Municipal Act, 2001, as set out in section 73 of schedule 1 to the bill, be struck out.

The Chair (Mr. Peter Tabuns): If you'd like speak to that, Mr. Hardeman.

Mr. Ernie Hardeman: Mr. Chair, this would allow a municipality to revoke their own prudent investors bylaw.

We heard from the Municipal Finance Officers' Association during their presentation: "We certainly agree that a transition process would be required for a municipality to adjust its portfolio holdings to comply with the legal list, but we don't see a reason why such rules cannot be set out in advance. The regulatory power to do this is already set out in Bill 68, where an amended clause 418.1(16)(d) provides for a Lieutenant Governor in Council regulation to set out transition rules."

The city of Brampton, in their written submission, recommended "flexibility to be provided around a municipality's ability to revoke the bylaw if and when the municipality no longer meets the criteria prescribed by the future regulations."

I think this is just—they can decide to have the bylaw for prudent investment. We believe they should have the ability to go back to the old way, shall we say, if they decide that that's appropriate.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Any further discussion on this matter? Mr. Rinaldi?

Mr. Lou Rinaldi: So I understand the motion that the member has, but, in some of these cases, our belief is that it could be quite complex, so we want to leave it up to the Lieutenant Governor in Council; that it's their decision to revoke, based on each circumstance.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested. People are ready to vote?

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Fraser, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We're now going to go to the vote on the section as a whole. You're ready? Shall schedule 1, section 73 carry? It is carried.

Colleagues, we now have sections 74 to 83 where I have no amendments. I would like to bundle them. Is there any objection?

Mr. Ernie Hardeman: Excuse me, what are you calling the question on?

The Chair (Mr. Peter Tabuns): Sections 74 to 83 have no amendments, and I would like to bundle them.

Mr. Ernie Hardeman: I would like to have 76 voted on separately, so if you could go 74, 75—

The Chair (Mr. Peter Tabuns): I understand. Not a problem. So I'll go—sorry, 76 you would like to have separate?

Mr. Ernie Hardeman: Yes: 74 and 75 bundled.

The Chair (Mr. Peter Tabuns): Okay, so 74 and 75 bundled together: People are agreeable to that? Shall schedule 1, sections 74 and 75 carry? Carried. Done.

We now are at section 76: Mr. Hardeman.

Mr. Ernie Hardeman: Yes. I think there has been some concern expressed on section 76. The process seems like a very simple thing, and, in fact, I believe in a lot of cases municipalities already have the ability to have charges be allowed to be charged as though they were taxes.

But this section here talks about administrative penalties, and then there are other parts of the bill that deal with things that could be penalized at a great number of dollars for certain action or inaction of the municipality. There have been discussion papers about changes to the environmental part of the provincial legislation that are going to have our sewage treatment facilities in rural areas have a mandatory inspection over five years. Now, this is just the discussion paper, but if that was to go through and the recommended amount of penalties that there are for that—they're talking in the thousands of dollars in penalties if you can't prove that you've had it done, if you can't show the bill of sale, shall we say. There's some real concern that if we allow this section in there, there is no appeal of a major fine, whereas, under other circumstances, a fine like that—even a speeding ticket—allows you to have your day in court.

1430

If the municipal bylaw enforcement officer or the individual working for the board of health lays the charge, the amount can automatically be charged as though they were taxes, with no appeal to the charge. I think that sets a precedent—that maybe a year from now or two years from now, everyone would wish that there was some kind of appeal there to be fair to people.

The first person who calls my office and says, "I had everything done, but I didn't get a receipt for the job, and now I have a \$10,000 fine to pay"—I think all would

agree that there should be a way that we could deal with that, as opposed to having that just added on to his taxes next year, which in a lot of cases would be as high as the taxes were on that property.

So I think it's a dangerous section.

The Chair (Mr. Peter Tabuns): Is there any further discussion on this? There is none.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested. We are going to vote on this.

Ayes

Dhillon, Fraser, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

I was going to bundle sections 77 to 83. Is there any concern with those? I have no amendments. Mr. Hardeman.

Mr. Ernie Hardeman: I just wanted to talk a little bit about 81.

The Chair (Mr. Peter Tabuns): Then I'll hold 81 aside.

We'll vote, then, on sections 77 to 80, inclusive.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote.

Ayes

Coe, Dhillon, Fraser, Hardeman, Hatfield, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): Opposed being none, they are carried.

We are now at section 81. Mr. Hardeman, you wanted to speak to that.

Mr. Ernie Hardeman: Just a general comment, Mr. Chair: I think this section is another example of, if the proper research is done and what we're doing today is appropriate, then this is giving a whole lot of power to the minister to, by regulation, change any bill or any part of the bill. I think that's going a little far. It calls into question why we have the rest of the bill if we have that section, because the minister could, by regulation, do everything that's in the bill, according to this section. So I will be voting against this section.

The Chair (Mr. Peter Tabuns): Any other discussion? There being none, are you ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested by Mr. Hardeman.

Ayes

Dhillon, Fraser, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

Now I'd like to bundle sections 82 and 83. Any objections? None? Shall schedule 1, sections 82 and 83 carry? Those are carried.

We now go to government motion 22.0.1. Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, I would withdraw the motion.

The Chair (Mr. Peter Tabuns): It is withdrawn.

We then go to government motion 22.0.2. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that paragraph 1 of subsection 84(2) of schedule 1 to the bill be amended by striking out "20".

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Did you wish to speak to that?

Mr. Lou Rinaldi: Sure. This is a technical change that would be consequential to the government recommendation to vote down section 20 of the bill.

The Chair (Mr. Peter Tabuns): Any further discussion on this matter? You're ready for the vote? All those in favour of government motion 22.0.2? Opposed?

Mr. Lou Rinaldi: Sorry; we're voting on 22.0.2, correct?

The Chair (Mr. Peter Tabuns): Correct.

Mr. Lou Rinaldi: Sorry, Chair. Could we do it again?

The Chair (Mr. Peter Tabuns): All those in favour of government motion 22.0.2? Opposed? It is carried.

Now we're going to vote on the section as a whole. You're ready for the vote? Shall schedule 1, section 84, as amended, carry? Carried.

And now we have the schedule as a whole. Are you ready to vote on the schedule as a whole?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Dhillon, Fraser, Hatfield, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

We now go to schedule 2. The first section has no amendments. Any discussion? There being none, you're ready to vote? Shall schedule 2, section 1 carry? Carried.

We now go to section 1.1, and NDP motion 22.1.

Mr. Percy Hatfield: I move that schedule 2 to the bill be amended by adding the following section:

"1.1 Subsection 21(2) of the act is amended by adding 'the Ontario Heritage Act, subject to any prescribed restrictions' before 'the Planning Act'."

The Chair (Mr. Peter Tabuns): I'm sorry to say, Mr. Hatfield and members of the committee, I'm ruling this

amendment out of order as it is in my opinion beyond the scope of the bill.

Mr. Percy Hatfield: You notice I don't comment after you say these things.

The Chair (Mr. Peter Tabuns): I know. You're a very agreeable man, Mr. Hatfield.

Members of the committee, we now have sections 2, 3, 4 and 5 that have no amendments. I would propose that we bundle them. Are you agreeable? Agreed.

Shall schedule 2, sections 2, 3, 4 and 5, inclusive, carry? No opposition? Carried.

We now go to PC motion 22.1.1: Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 101.1(1) of the City of Toronto Act, 2016, as set out in section 6 of schedule 2 to the bill, be struck out and the following substituted:

“Entry on land re maintenance, repairs or alterations

“(1) The city may enter on land adjoining land owned or occupied by the city, at any reasonable time, for the purpose of maintaining or making repairs or alterations to the land owned or occupied by the city but only to the extent necessary to carry out the maintenance, repairs or alterations and only if the city has given notice to the owner or occupier of the land at least 24 hours before the proposed entry.

“Exception

“(1.1) Despite subsection (1), the city may enter on land adjoining land owned or occupied by the city without giving notice if the failure to carry out the maintenance, repairs or alterations in a period of less than 24 hours could reasonably result in damage to the city's land or property or endanger the health or safety of an individual.”

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. If you'd like to speak to it?

Mr. Ernie Hardeman: This amendment is just to cover off the fact that I think in all normal circumstances the city should—they don't own the land that they're crossing. They're only crossing it because that's how they get to the land that they do own. It's what you would call a right-of-way; you cross it to get there. If this was two other property owners, I don't think there's any way the committee would agree that one owner should be able to just come and say, “Well, it's noon today, it's a reasonable time, we're going to cross your property to do whatever it is we want to do on our property.” I think the municipality should be the same. Courtesy—we need to make sure that they have to let the people know they are going to do that. They should give at least a 24-hour notice.

1440

The exception, of course, is if there's a reasonable concern that there is something wrong on that property and you have to enter it at a reasonable time—in fact, if it's an emergency, a reasonable time would be to do that immediately so there would be no notice, there would not be anything. If it was midnight and there was a burst of a sewer or a hydro line down or something on that property, obviously they would fix that right away.

But if there's no reason to do it quickly, there's also no reason why the municipality can't give them a phone call the day before and suggest that tomorrow, we're hoping to go in there and do some work on that piece of property.

I think it's a reasonable approach to deal with the thing.

The Chair (Mr. Peter Tabuns): Any further discussion on this matter? Mr. Rinaldi.

Mr. Lou Rinaldi: Sure. The city already requires to provide notice before entering into land for the proposed purposes. So, Chair, the bill provision was put forward in response to a request from Toronto and other municipalities for this authority. The PC motion will require the city to provide 24 hour's notice to the owner or occupier of the land before the proposed entry, unless waiting for 24 hours will result in damage to the land or property or endanger the health or safety of individuals. Power of entry rules under the act already apply. The city, before it enters onto property to the proposed purposes—these rules require the city to give notice to the occupier unless a delay will result in an immediate danger to the health and safety of the employees. It's in section 375 of the City of Toronto Act.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield and then Mr. Hardeman.

Mr. Percy Hatfield: My wife and I, yesterday, hosted a birthday party for our one- and three-year-old granddaughters. The party had been planned for some time. We live on a piece of property that backs onto a city park. Had the weather been nicer, we would have had a bouncy castle outside on the city park because we have a small backyard. Normally, it wouldn't have been a problem. But if they had to come down between our home and the next home to get to the park, I can imagine that: having all the kids out there, the bouncy castle, and all of a sudden there's a bulldozer.

If you give 24 hours' notice, that gives the homeowner an opportunity to say: “Can you do it the day after, or the day before? Because I have 25 kids coming over and a bouncy castle, and you're going to ruin my party if you come the day that I've planned this party for quite a while.” I don't see a problem with 24 hours' notice. I don't want to drag this out for too long, but there would be extenuating circumstances, one or two times out of a hundred perhaps, that the 24 hours' notice would take care of any of that.

The Chair (Mr. Peter Tabuns): Mr. Hardeman?

Mr. Ernie Hardeman: I just want to point out, with the comments from the parliamentary assistant, the suggestion that it's already in the act that they have to give notice—then I wonder why this section is in the bill at all. If they already have the right to do what this section says and all the safeguards are in there for that, then why are we dealing with that in this section?

The Chair (Mr. Peter Tabuns): Is there anyone else who wants to speak to this matter? No one else is going to speak to it?

Mr. Ernie Hardeman: If there's no answer coming, I would just ask that you have a recorded vote.

The Chair (Mr. Peter Tabuns): I'll certainly have a recorded vote. People are ready to vote? Alright, we'll go to the vote then.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Fraser, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

With that, we go to vote on the section as a whole.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Dhillon, Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

We now have NDP motion 22.2. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 7 of schedule 2 to the bill be struck out and the following substituted:

“7. Subsection 105(5) of the act is repealed and the following substituted:

“Bylaw re permission of conservation authority

“(5) If a regulation is made under section 28 of the Conservation Authorities Act respecting the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere, in any area of the municipality, a bylaw passed under this section shall include a provision requiring the written permission of a conservation authority prior to the issuing of a permit under the bylaw in respect of an activity that occurs in an area that is subject to a regulation made under section 28 of that act.”

The Chair (Mr. Peter Tabuns): Did you want to speak to that, Mr. Hatfield?

Mr. Percy Hatfield: Well, just to say that it's an attempt to avoid conflicts between bylaws of conservation authorities and municipalities. I'm of the opinion that in such cases as this, the supreme authority should rest with the conservation authority which has the mandate to protect our waterways, and that should not be overruled by a political bent of a municipality.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: I would just say quickly that we're dealing with the City of Toronto Act and this motion is similar to NDP motion 2.1 under the Municipal Act that we dealt with in the last couple of days. So my comments

will be the same, and I recommend voting against it, Chair.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're reading for the vote?

Interjection.

The Chair (Mr. Peter Tabuns): Oh, you—

Mr. Percy Hatfield: In favour, yes. I'm ready.

The Chair (Mr. Peter Tabuns): You're voting? Man, you are ready.

All those in favour of NDP motion 22.2, please indicate. All those opposed, please indicate. It is lost, and I hate to say that.

We now go to vote on the section as a whole. Are you ready for the vote? Shall schedule 2, section 7 carry? It is carried.

We now go to government motion 23 and section 8. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that subsections 105.3(1) and (2) of the City of Toronto Act, 2006, as set out in section 8 of schedule 2 to the bill, be amended by striking out “long-term planning for energy use” wherever it appears and substituting in each case “long-term energy planning”.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Did you want to speak to that at all?

Mr. Lou Rinaldi: Sure. This motion would help clarify the city of Toronto's role in long-term energy planning. The term “energy use” may be perceived to limit the city of Toronto's role compared to the broader term “energy planning,” which may include, for example, energy production.

The Chair (Mr. Peter Tabuns): Further discussion on this matter? Mr. Hardeman.

Mr. Ernie Hardeman: I was just wondering, thinking of the Green Energy Act, with this change in the wording, “energy planning” instead of “energy use,” would that include where wind turbines could be built?

The Chair (Mr. Peter Tabuns): You've made a statement. Is there anyone who wishes to—

Mr. Ernie Hardeman: It's a question to the parliamentary assistant.

The Chair (Mr. Peter Tabuns): I understand you—

Mr. Ernie Hardeman: If he can't answer, maybe he can get the legal branch to—

The Chair (Mr. Peter Tabuns): He may or may not answer. Does anyone want to speak to that?

Mr. Lou Rinaldi: Maybe I could get somebody to help us.

The Chair (Mr. Peter Tabuns): We have a request from Mr. Rinaldi for someone—

Mr. Lou Rinaldi: They did such a great job last time around, I'm sure they'll do the same thing—

The Chair (Mr. Peter Tabuns): Welcome back. If again, you'd introduce yourself for Hansard.

Ms. Carolyn Poutiainen: Hi. It's Carolyn Poutiainen, counsel for the ministry.

1450

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hardeman.

Mr. Ernie Hardeman: Yes. In changing the wording from “energy use” to “long-term energy planning,” would that include the siting of energy projects?

Ms. Carolyn Poutiainen: This provision would not impact municipal powers to act within the scope of the Green Energy Act. Changing the language from “long-term planning for energy use” to “long-term energy planning” would not impact their authority.

Mr. Ernie Hardeman: If it doesn’t include the siting of infrastructure, then what is your interpretation of the difference between the two? Planning energy use and planning energy: If you can’t do the infrastructure planning, then what is the difference between the two?

Ms. Carolyn Poutiainen: The Green Energy Act is separate from municipal powers in the Municipal Act. It being the legislation for a different ministry, I’m not really in a position to speak in detail on that act. But this would not change municipal authority one way or another.

Mr. Ernie Hardeman: Okay.

The Chair (Mr. Peter Tabuns): I have a question from Mr. Hatfield as well.

Mr. Percy Hatfield: Carolyn, this is a change to the City of Toronto Act. How many wind turbines are there in the city of Toronto?

Ms. Carolyn Poutiainen: I don’t believe that’s a legal question. I can’t speak to that.

Mr. Percy Hatfield: There’s only one or two?

Mr. Ted McMeekin: One.

Mr. Percy Hatfield: One? All right.

The Chair (Mr. Peter Tabuns): Any further questions for counsel? There being none, thank you very much.

With that, are there further discussions on this? There being none, are you ready for the vote?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Dhillon, Fraser, Hardeman, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is carried.

Now we get to vote on section 8 as a whole. Are you ready for the vote? Shall schedule 2, section 8, as amended, carry? It is carried.

I now have sections 9 and 10, which don’t have amendments. I’d like to bundle them. Any objections? None? Shall schedule 2, sections 9 and 10 carry? Carried.

We now go to PC motion number 24, in section 11. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 110(1) of the City of Toronto Act, 2006, as set out in section 11 of schedule 2 to the bill, be struck out and the following substituted:

“Advertising devices

“(1) A city bylaw respecting advertising devices, including signs, applies to an advertising device that was lawfully erected or displayed on the day the bylaw comes into force to the extent that the bylaw does not require the substantial alteration or removal of the device.”

The Chair (Mr. Peter Tabuns): Thank you. Did you want to speak to that, Mr. Hardeman?

Mr. Ernie Hardeman: Thank you very much. This amendment would allow new bylaws to apply to billboards, except if the bylaw required the billboard to be substantially altered or removed. This bylaw would allow the city of Toronto to set standards for billboards, such as dimming LED signs at night, while respecting the fact that people have entered into rental agreements and invested in billboards in good faith. We heard from hundreds of small businesses that depend on rental income from billboards.

This would ensure that a new bylaw couldn’t force removal of those existing billboards which were put up in good faith under the laws that existed at the time, while still giving municipalities the ability to set standards to ensure good maintenance.

This amendment was requested by Outfront Media Canada, Clear Channel Outdoor, other billboard companies, and hundreds of people depending on income for space leased to billboard companies.

The Chair (Mr. Peter Tabuns): Further discussion? There is none? You’re ready for the vote?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Fraser, Hatfield, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to PC motion number 25.

Mr. Ernie Hardeman: I move that subsection 110(1) of the City of Toronto Act, 2006, as set out in section 11 of schedule 2 to the bill, be struck out and the following substituted:

“(1) This subsection, as it read on the day before section 11 of schedule 2 to the Modernizing Ontario’s Municipal Legislation Act, 2016 came into force, continues to apply to bylaws passed on or before July 1, 2022.”

The Chair (Mr. Peter Tabuns): Mr. Hardeman, I didn’t hear you say the words “Advertising devices,” as the title of that. I’m assuming that you did intend to say that.

Mr. Ernie Hardeman: Yes, of course. If it’s required, I intended to say it.

The Chair (Mr. Peter Tabuns): Good. Would you like to speak to it?

Mr. Ernie Hardeman: Yes. This amendment would allow for a five-year phase-in before new bylaws could require the removal or substantial alteration of the existing billboards. That relates to the previous resolution that would eliminate the ability to deal with those at all. This allows for a five-year phase-in period.

We heard from hundreds of individuals and small businesses that depend on rental incomes from billboards. This would ensure that they have time to plan for the loss of rental income. The government has an amendment with the same intent, which has this section come into force on the fifth anniversary of this bill receiving royal assent. However, having the actual date in legislation will provide more clarity and certainty to the industry and those depending on the rental income.

This amendment was requested, again, by Outfront Media Canada, Clear Channel Outdoor, other billboard companies and hundreds of people depending on income from space leased to billboard companies.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, this is similar to PC motion number 2, and our response would be the same.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Fraser, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now go to vote on section 11 as a whole. You're ready for that vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Shall schedule 2, section 11 carry?

Interjections.

The Chair (Mr. Peter Tabuns): We'll start over again. Members of the committee, you have to pay attention when we're voting. It's a fundamental part of the job.

Mr. Ernie Hardeman: Mr. Chair, I thought that maybe if you just had counted the hands that were up, I could have won that one.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, I've gone through that.

We're having a recorded vote, for all those who are in the room.

Ayes

Dhillon, Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): The section is carried.

We now have schedule 2, section 12, with no amendments. No debate? Everyone is ready to vote? Shall schedule 2, section 12 carry? Opposed? It is carried.

We now go to NDP motion 25.1. Mr. Hatfield.

Mr. Percy Hatfield: I move that schedule 2 to the bill be amended by adding the following section:

"12.1 The act is amended by adding the following section:

"Demolition of non-residential properties

"112.(1) The city may prohibit and regulate the demolition of non-residential properties.

"Same

"(2) The power to pass a bylaw respecting the demolition of non-residential properties includes the power,

"(a) to prohibit the demolition of non-residential properties without a permit; and

"(b) to impose conditions as a requirement of obtaining a permit.

"Effect of building code, etc.

"(3) Subsections 111(4), (5) and (6) apply, with necessary modifications, with respect to the demolition of a non-residential property."

1500

The Chair (Mr. Peter Tabuns): Mr. Hatfield and members of the committee, I am sorry to say that I am ruling this amendment out of order as it is, in my opinion, unrelated to the subject matter of the bill or to the clause under consideration.

Mr. Percy Hatfield: Oof.

The Chair (Mr. Peter Tabuns): I know. I've cut you to the quick and I feel badly about that.

Mr. Percy Hatfield: It's saving heritage properties, Chair.

The Chair (Mr. Peter Tabuns): I understand, Mr. Hatfield.

We now have schedule 2, sections 13 and 14, for which I have no amendments. I am going to bundle those, unless there is objection. Shall schedule 2, sections 13 and 14, carry? Carried. No opposition? Done.

We now go to NDP motion 25.2. Mr. Hatfield.

Mr. Percy Hatfield: I believe I will withdraw this motion.

The Chair (Mr. Peter Tabuns): It is withdrawn.

We now go to NDP motion 25.2.1.

Mr. Percy Hatfield: I believe I will withdraw that motion.

The Chair (Mr. Peter Tabuns): And we go to NDP motion 25.2.2. Mr. Hatfield.

Mr. Percy Hatfield: Thank you. I hope I've curried favour by withdrawing those previous motions, Chair.

I move that schedule 2 to the bill be amended by adding the following section:

"14.1 The act is amended by adding the following section:

“Protection of officers

“156.1(1) No proceeding shall be commenced against the integrity commissioner, the ombudsman, the auditor general, the registrar referred to in section 168, or an employee in any of their offices for any act done or omitted in good faith in the execution or intended execution of their duties under this act or any other act.

“Indemnity

“(2) Despite their obligations to carry out their duties in an independent manner, the integrity commissioner, the ombudsman, the auditor general and the registrar referred to in section 168 shall be indemnified and saved from harm by the municipality when carrying out their duties under this part.

“Testimony

“(3) The integrity commissioner, the ombudsman, the auditor general, the registrar referred to in section 168 and employees in any of their offices are not competent or compellable witnesses in a civil proceeding in connection with anything done under this act or any other act, except as may be required to apply to a judge under section 8 of the Municipal Conflict of Interest Act for a determination as to whether the member has contravened section 5.1, 5.2 or 5.3 of that act.”

The Chair (Mr. Peter Tabuns): Mr. Hatfield and members of the committee, I'm ruling this amendment out of order as it is, in my opinion, unrelated to the subject matter of the bill or to the clause under consideration.

We go on to NDP motion 25.2.3. Mr. Hatfield.

Mr. Percy Hatfield: I move that schedule 2 to the bill be amended by adding the following section:

"14.1 The act is amended by adding the following section:

“Protection of officers

“156.1(1) No proceeding shall be commenced against the integrity commissioner, the ombudsman, the auditor general, the registrar referred to in section 168, or an employee in any of their offices for any act done or omitted in good faith in the execution or intended execution of their duties under this act or any other act.

“Indemnity

“(2) Despite their obligations to carry out their duties in an independent manner, the integrity commissioner, the ombudsman, the auditor general and the registrar referred to in section 168 shall be indemnified and saved from harm by the municipality when carrying out their duties under this part.

“Testimony

“(3) The integrity commissioner, the ombudsman, the auditor general, the registrar referred to in section 168 and employees in any of their offices are not competent or compellable witnesses in a civil proceeding in con-

nexion with anything done under this act or any other act, except as may be required to apply to a judge under section 8 of the Municipal Conflict of Interest Act for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of that act.”

The Chair (Mr. Peter Tabuns): Mr. Hatfield, members of the committee, I'm ruling this amendment out of order as it is, in my opinion, unrelated to the subject matter of the bill or to the clause under consideration.

With that, we go to NDP motion 25.3. Mr. Hatfield.

Mr. Percy Hatfield: Just because of your previous rulings, I'm going to withdraw this one.

The Chair (Mr. Peter Tabuns): I don't mean to be hard or cruel, Mr. Hatfield.

Okay, so 25.3 is withdrawn, and we have 25.3.1.

Mr. Percy Hatfield: I move that schedule 2 to the bill be amended by adding the following section:

"14.2 The act is amended by adding the following section:

“Information sharing

“156.2 Nothing in this part prevents the integrity commissioner, the ombudsman, the auditor general and the registrar referred to in section 168 from disclosing, among themselves, information any of them may receive in carrying out their responsibilities under this part.”

The Chair (Mr. Peter Tabuns): Mr. Hatfield, members of the committee, I'm ruling this amendment out of order as it is, in my opinion, unrelated to the subject matter of the bill or to the clause under consideration.

Mr. Hatfield, you have a further motion which, as far as I can tell, is in order.

Mr. Percy Hatfield: Oh, okay. It's in order? Thank you. I'll read it, then.

The Chair (Mr. Peter Tabuns): Yes, schedule 2, section 15.

Mr. Percy Hatfield: I move that section 15 of schedule 2 to the bill be amended by adding the following subsection:

“(2) Section 157 of the act is amended by adding the following subsection:

“Conflicts of interest to be included

“(5) In addition to any subject matters prescribed by the minister under subsection (4), a code of conduct shall govern conflicts of interest, including pecuniary conflicts of interest within the meaning of the Municipal Conflict of Interest Act.”

The Chair (Mr. Peter Tabuns): Mr. Hatfield, do you wish to speak to that?

Mr. Percy Hatfield: I just believe that it's self-explanatory, Chair.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, this motion is similar to NDP motion 3.3, and our response will be the same.

Mr. Percy Hatfield: What was that response? I forgot.

Mr. Lou Rinaldi: That we will not be supporting it.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Fraser, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to voting on schedule 2, section 15, as a whole. Are you ready to vote? Shall schedule 2, section 15 carry? It is carried.

We now go to government motion 25.5, in section 16.

Mr. Lou Rinaldi: Thank you, Chair.

Interjection.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi or Mr. McMeekin?

Mr. Lou Rinaldi: Oh, sorry, Ted.

Mr. Ted McMeekin: I'll go.

The Chair (Mr. Peter Tabuns): Mr. McMeekin, please.

Mr. Ted McMeekin: I move that paragraph 3 of subsection 159(1) of the City of Toronto Act, 2006, as set out in subsection 16(1) of schedule 2 to the bill, be struck out and the following substituted:

"3. The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of city council and of local boards (restricted definition)."

1510

The Chair (Mr. Peter Tabuns): Did you wish to speak to that? Mr. Rinaldi?

Mr. Lou Rinaldi: This is similar to government motion 3.4. This amendment will provide greater clarity with regard to the role of the integrity commissioner for the application of the Municipal Conflict of Interest Act to members of city council and of Toronto local boards.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: Just a question on the clarity: Why does it need to be changed to have the responsibility? In the previous part of the act, it said that was the responsibility. What's the clarification that's required?

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Is there a response?

Mr. Lou Rinaldi: Sure.

The Chair (Mr. Peter Tabuns): Counsel is requested.

Welcome back. Again, if you'd introduce yourself for Hansard.

Ms. Carolyn Poutiainen: It's Carolyn Poutiainen, counsel for the ministry.

The Chair (Mr. Peter Tabuns): Thank you.

Ms. Carolyn Poutiainen: So the question is, what is the purpose of this government motion? You can see, compared to the wording in the bill, there is just one

change: changing it to "members of city council and of local boards," instead of "or."

Mr. Ernie Hardeman: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Further questions, Mr. Hardeman?

Mr. Ernie Hardeman: No.

The Chair (Mr. Peter Tabuns): No? Thank you very much.

Any other discussion on this matter? There being none—

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested:

Ayes

Dhillon, Fraser, Hatfield, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

We go then to government motion 25.6. Mr. McMeekin.

Mr. Ted McMeekin: I move that paragraph 4 of subsection 159(1) of the City of Toronto Act, 2006, as set out in subsection 16(1) of schedule 2 to the bill, be struck out.

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: This motion will remove the integrity commissioners' role in conducting inquiries on their own initiative. This change will provide cost savings for the city, as investigations will only be initiated after a complaint is received, as proposed by Bill 68, rather than on the integrity commissioners' own initiative.

The Chair (Mr. Peter Tabuns): Further discussion on this amendment? There being none, you're ready for the vote? Okay. All those in favour of government motion 25.6, please indicate. It is carried.

We now go to PC motion number 26. Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 159 of the City of Toronto Act, 2006, as set out in subsection 16(1) of schedule 2 to the bill, be amended by adding the following subsections:

"Exception

"(1.1) Despite subsection (1), a commissioner shall not perform any function described in paragraphs 1 to 4 of that subsection with respect to a member of a local board who does not receive compensation for being a member of the local board.

"Same, transition

"(1.2) Despite subsection (1), a commissioner shall not perform any function described in paragraphs 1 to 4 of that subsection with respect to a member of a local board who receives compensation for being a member of

the local board relating to any conduct of the member that occurs prior to July 1, 2019.”

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Would you like to speak to that?

Mr. Ernie Hardeman: I think the important part is that, particularly in rural Ontario, it’s going to be very difficult to deal with volunteers who get nothing out of what they do, but are missing the chance of having—against nothing that they did themselves, but somebody deciding to ask for the review and working the commissioner to be looking at what they’ve done or haven’t done.

For volunteers, I think we’re always looking at whether somebody was doing it for personal gain and things like that. Well, a volunteer is going to have great difficulty in doing much for personal gain. It’s service to their community, and I think we should recognize that in the legislation.

The other part is that for those who are members of boards that are compensated, I think it’s appropriate to give some phasing in as this bill gets implemented. There are going to be a lot of changes where we have the integrity commissioner looking at all members of council and how that’s going to be dealt with, and then to do it for all of the boards and commissions, of which there are a great number.

The last section of it is to set a phase-in period to July 1, 2019, which is when they would have to do it for all of them. I think this is just for the convenience of municipalities so they can prepare for it.

A lot of the boards and commissions, particularly in small towns and rural, are not equipped to make these big changes. They’re going to spend the first six months or a year talking about what’s coming and then they’re going to have to have some time to get everything according to the new legislation. I think this is just to ease facilitating the implementation.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: I think we debated this under schedule 1 of PC motion 4 at some length, and this is basically the same. I recommend voting against it for those same reasons.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you’re ready for the vote?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Fraser, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): And it is lost.

We go to PC motion number 27: Mr. Coe.

Mr. Lorne Coe: I move that section 159 of the City of Toronto Act, 2006, as set out in subsection 16(2) of schedule 2 to the bill, be amended by adding the following subsections:

“Indemnity

“(2.0.1) The city shall indemnify the commissioner for any liability arising from an act done in good faith in the execution of the commissioner’s duties or from any neglect or default in the execution in good faith of those duties.

“Immunity

“(2.0.2) No proceeding shall be commenced against the commissioner or any person employed in his or her office for any act done or omitted in good faith in the execution or intended execution of his or her duties under this act.”

Chair, the amendment would protect city of Toronto integrity commissioners by providing them with immunity and requiring municipalities to provide them with an assurance. We had testimony before the committee—committee members will recall—particularly from Mr. Robert Marleau, the integrity commissioner for the city of Ottawa. He stressed during the basis of his testimony at that time that, “Integrity commissioners are not officers of council.” He stressed again that they’re not officers of council. “They report to council as independent oversight arbitrators. As such, there is a considerable doubt that immunity section 448 of the Municipal Act of 2001 applies or is sufficient to protect the integrity commissioners from suffering considerable legal costs in defending their actions when under judicial review.”

We had other integrity commissioners before committee who shared their experience directly with us where they were part of a judicial undertaking and the resulting costs that were applied to them as part of that exercise.

The aspect here that’s underpinning this is that it will afford protection to integrity commissioners in doing their jobs without putting themselves at personal financial risk, thus the final aspect of the amendment that we bring before committee.

The Chair (Mr. Peter Tabuns): Further debate? Mr. Rinaldi.

Mr. Lou Rinaldi: This sounds like a broken record, but this amendment is similar to schedule 1, motion number 5, and our response would be the same. I recommend voting against it.

1520

The Chair (Mr. Peter Tabuns): Further debate?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Fraser, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to government motion 27.0.1. Mr. McMeekin.

Mr. Ted McMeekin: I move that section 16 of schedule 2 to the bill be amended by adding the following subsection:

“(3) Section 159 of the act is amended by adding the following subsections:

“Indemnity

“(5) The city shall indemnify and save harmless the commissioner or any person acting under the instructions of that officer for costs reasonably incurred by either of them in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a duty or authority under this part or a bylaw passed under it or an alleged neglect or default in the performance in good faith of the duty or authority.

“Interpretation

“(6) For greater certainty, nothing in this section affects the application of section 391 with respect to a proceeding referred to in subsection (5) of this section.”

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Sure. This is similar to government motion 6.0.1 from schedule 1. We would encourage voting for it because we want to make sure that Toronto is treated similarly to other municipalities across the province and vice versa.

The Chair (Mr. Peter Tabuns): Further debate? Mr. Coe.

Mr. Lorne Coe: It appears that the government amendment is premised on section 391, which would prevent proceedings against an integrity commissioner. However, this has proven not to be true. Earlier in our deliberations, I cited the case of an integrity commissioner who appeared before committee from the city of Vaughan, Suzanne Craig. She shared her experience with us, including a court document from a proceeding against her. It was dismissed because the court found that there was no merit to the complaint, not because of section 448.

I also cited the opinion of Mr. Robert Marleau, the integrity commissioner for the city of Ottawa, whom I’m sure my colleague Mr. Fraser is familiar with, given the breadth and depth of Mr. Marleau’s work in the city of Ottawa.

I go on further. I can cite aspects of the City of Toronto Act, section 391, as well, that talks about, “No proceeding for damages or otherwise shall be commenced against a member of city council, an officer, employee or agent of the city or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this act or a bylaw passed under it or for any alleged neglect or default in the performance in good faith of the duty or authority.” That’s cited from the City of Toronto Act.

Once again, I understand the premise of the amendment going forward, but it doesn’t appear that the

government believes section 391 would prevent those proceedings against an integrity commissioner themselves.

In some aspects, it’s not necessary. In other aspects, I understand the protections that it might bring.

The Chair (Mr. Peter Tabuns): Any further discussion on this matter? Seeing none, you’re ready for the vote?

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Fraser, Hardeman, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is carried.

With that, we vote on the section as a whole. People are ready for the vote?

Shall schedule 2, section 16, as amended, carry? It is carried.

We now go to NDP motion 27.1. Mr. Hatfield.

Mr. Percy Hatfield: I have another motion first, Chair—that we take a five-minute break.

The Chair (Mr. Peter Tabuns): People are agreeable to a five-minute break?

Mr. Lorne Coe: Ten minutes?

The Chair (Mr. Peter Tabuns): Ten? A 10-minute break.

The committee recessed from 1526 to 1535.

The Chair (Mr. Peter Tabuns): The committee resumes. We are at NDP motion 27.1. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 16 of schedule 2 to the bill be amended by adding the following subsection:

“(3) Section 159 of the act is amended by adding the following subsections:

“Indemnity

“(5) The city shall indemnify and save harmless the commissioner or any person acting under the instructions of that officer for costs reasonably incurred by either of them in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a duty or authority under this part or a bylaw passed under it or an alleged neglect or default in the performance in good faith of the duty or authority”—

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Percy Hatfield: Yes?

The Chair (Mr. Peter Tabuns): It may be that you’ve turned to the wrong motion there. Is that 27.1 at the top or 27.0.1?

Mr. Percy Hatfield: You’re absolutely right. It took you long enough to get it though, didn’t it?

The Chair (Mr. Peter Tabuns): We had a big confab up here to be certain.

Mr. Percy Hatfield: I didn’t turn my page, obviously.

I move that section 17 of schedule 2 to the bill be amended by adding the following subsection:

“(2) Subsection 160(5) of the act is repealed and the following substituted:

“Penalties and remedial actions

“(5) City council may impose any of the following penalties or remedial actions on a member of council or of a local board if the commissioner reports to council that, in his or her opinion, the member has contravened the code of conduct:

“1. A reprimand.

“2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

“3. Removal from a council committee or local board committee or, in the case of a local board, removal from an officer position on the board.

“4. A direction to apologize or make other amends to an aggrieved party, to council, to a local board or to the public.

“5. Any other action the commissioner may recommend that is intended to remediate the circumstances.

“Restriction

““(5.1) For greater certainty, city council is not authorized to remove a member of council from office.””

The Chair (Mr. Peter Tabuns): Did you want to address that?

Mr. Percy Hatfield: I think it was requested by the integrity commissioners. It, for example, gives Toronto council the ability to impose listed penalties for contraventions of the code of conduct. It just lays it all out, we can all understand it and I’m sure we’ll all be supporting it.

The Chair (Mr. Peter Tabuns): Any further discussion on this matter? If there’s none, we’re ready for the vote? All those in favour of NDP motion 27.1, please indicate. All those opposed? It is lost.

We go to government motion 27.2. Mr. McMeekin.

Mr. Ted McMeekin: I move that section 17 of schedule 2 to the bill be struck out and the following substituted:

“17. Section 160 of the act is amended by adding the following subsections:

“Termination of inquiry when regular election begins

“(7) If the commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, the commissioner shall terminate the inquiry on that day.

1540

“Same

“(8) If an inquiry is terminated under subsection (7), the commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the Municipal Elections Act, 1996, the person or entity who made the request or the member or former member

whose conduct is concerned makes a written request to the commissioner that the inquiry be commenced.

“Other rules that apply during regular election

“(9) The following rules apply during the period of time starting on nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that act:

“1. There shall be no requests for an inquiry about whether a member of council or of a local board (restricted definition) has contravened the code of conduct applicable to the member.

“2. The commissioner shall not report to the city council or local board (restricted definition) about whether, in his or her opinion, a member of council or of a local board (restricted definition) has contravened the code of conduct applicable to the member.

“3. The city council or local board (restricted definition) shall not consider whether to impose the penalties referred to in subsection (5) on a member of council or of a local board (restricted definition).”

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: I won’t be long. Again, this motion mirrors government motion 6.2 of schedule 1, and our response would be the same, to treat both other municipalities and the city of Toronto.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I support the motion. I think it was quite clear in the presentation we heard from AMO and ROMA. I just want to put on the record the comment that the president of AMO made: “I do not think any of you would deny the political gain that could be had by the mere suggestion of a complaint being made. In fact, your act goes even further to say that the provincial IC shall suspend an inquiry if a member whose conduct is concerned resigns his or her seat. Neither of these are in Bill 68 and they should be.”

I think that really tells the whole story. We don’t want people using the inquiry process as a means of changing the results of elections, so I support this motion.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, people are ready for the vote?

All those in favour of government motion 27.2? Opposed? It is carried.

With that, we go to the vote on section 17 as a whole. You’re ready for the vote? Shall schedule 2, section 17, as amended, carry?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): No.

Mr. Ernie Hardeman: You haven’t said “Carried” yet.

The Chair (Mr. Peter Tabuns): I said “carry.” I did say it, Ernie. You caught me on the “R-Y.”

Mr. Ernie Hardeman: Well—

The Chair (Mr. Peter Tabuns): That’s why I ask, “Are you ready to vote?” It’s to give everyone a notice that it’s coming.

Mr. Ernie Hardeman: Then you said—

The Chair (Mr. Peter Tabuns): “Shall schedule 2, section 17, as amended, carry?” And as I said “carry”—

Mr. Ernie Hardeman: Shouldn’t there be an opportunity for a yes or a no on that?

The Chair (Mr. Peter Tabuns): There will be, yes, but it’s not recorded.

Mr. Ernie Hardeman: Okay.

The Chair (Mr. Peter Tabuns): So, carried? Opposed? It is carried.

We now go to PC motion number 28. Mr. Coe?

Mr. Lorne Coe: I move that subsection 160.1(2) of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be struck out and the following substituted:

“Application

“(2) The following persons may apply in writing to the commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act by a member of city council or a member of a local board (restricted definition):

“1. A ratepayer.

“2. A person who would be entitled to be an elector under section 17 of the Municipal Elections Act, 1996 at an election held in the city at the time of the application.

“3. A person who operates a business in the city or a business that provides goods or services to the city.

“Exception

“(2.1) An application may not be made in respect of a member who has been nominated for an office on the city council.”

The Chair (Mr. Peter Tabuns): Mr. Coe.

Mr. Lorne Coe: Chair, through you: The amendment would limit the people who can bring forward a complaint to the integrity commissioner to people who have a connection—and I underscore connection—in a municipality, specifically an elector, a ratepayer or a person who is either operating a business in or doing business with a municipality. It would also prevent applications from being filed during elections.

Members of committee will remember that we had testimony from Mr. Patrick Daly, who is the president of the Ontario Catholic School Trustees’ Association, who said: “Allowing persons from outside the board’s or a municipality’s jurisdiction to apply to a judge for a potential violation of the act would invite many frivolous and vexatious claims to be made against a school board’s trustees.”

It’s not only school board trustees. We’ve got five former members of city and town councils and regional councils here. We have lived through that period, haven’t we, where those types of complaints, and the potential for those, do come forward. That’s the spirit of what the motion is.

I’d add to that. We heard this to some extent from the integrity commissioners as well, and from other testimony, particularly from the legal commissioner from the town that I served in for 13 years, Mr. Mara. He made the point that the clearer definition of who can file an application would help avoid costly disputes—and we know

there’s a cost to this as well, and we’re all respectful of that—for both councils and integrity commissioners.

At the end of the day, what underpins this amendment—and it safeguards this; it really, truly safeguards this—is that it prevents people with no connection, regardless of whether it’s a rural community or a larger community or a region that we’ve all served on, from filing frivolous complaints and driving the costs through those.

That’s the intent and direction of the proposed amendment before us, Chair. I know that the members of committee will look at it and understand the merit of what’s in front of them.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none—

Mr. Lorne Coe: Recorded vote, Chair, please.

The Chair (Mr. Peter Tabuns): A recorded vote is requested. Thank you, Mr. Coe.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Fraser, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to PC motion 29. Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 160.1 of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be amended by adding the following subsections:

“Exception

“(2.2) Despite subsection (2), a commissioner shall not conduct an inquiry if the commissioner is of the opinion that,

“(a) a person applied under subsection (2) in bad faith or for reasons that are frivolous or vexatious; or

“(b) the application does not contain a sufficient basis on which to conduct an inquiry.

“Same

“(2.3) The commissioner shall publish brief reasons for a decision made under subsection (2.2).”

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. If you have comments?

Mr. Ernie Hardeman: Yes. This would allow an integrity commissioner to dismiss complaints that are frivolous or vexatious, rather than being forced to spend taxpayer money to investigate them.

1550

The integrity commissioner would still be required to publish the reasons for their decision.

This amendment was requested by AMO. As Lynn Dollin said at committee, “We also believe it is wise to include in the act, for the public’s clear understanding, that an” integrity commissioner “has the authority to find a complaint frivolous, vexatious or not made in good faith, or that there are insufficient grounds for an inquiry.”

While an "integrity commissioner" "can make this finding, it should be set out in the bill, as it is in your act, as well as other pieces of legislation like the Planning Act." I think that really says it all.

It's right in the Planning Act that complaints can be dismissed as frivolous or vexatious. We think that same protection should be here for the integrity commissioner to make that decision and tell people that's why they put in an application and they didn't hear anything for six months. They should know that they're never going to hear anything and that in fact they're not going to conduct an investigation. They shouldn't just be left hanging there, whoever made the complaint. They should know upfront, in very short order, "We're not going to investigate this, and that's going to be the end of it."

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Hatfield.

Mr. Percy Hatfield: Let me express my extreme displeasure with the government side. They weren't going to speak to this one, and they didn't speak to the last one. That disappoints me. If you're reading the record in Hansard, after hearing Mr. Coe's very good reasons for the motion, especially on the last one—somebody is going to read Hansard and say, "The government voted against it, but they didn't say why. It makes so much sense. Why do they oppose it?"

I don't know what the new game plan is over there. Maybe they're going to speed things up by not giving us their reasons for opposing very good amendments. If that's the case, then this is going to get lengthy because I want to hear why they're opposed.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Percy Hatfield: And I'm delighted to listen if they'll tell me why they're opposed.

The Chair (Mr. Peter Tabuns): Mr. Coe.

Mr. Lorne Coe: One of the other aspects that's reflected in this amendment is openness and transparency. It's not an unreasonable expectation that an integrity commissioner should be able to express in writing why they're not pursuing a particular investigation. If you accept on one level that the integrity commissioner has accepted the information, looked at the face value of the information and made a judgment, I think it's in the public interest to disclose what the reason was, don't you think? Openness and transparency.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: We had a lengthy debate on this, on schedule 1, PC motion number 8. Chair, for the same reason, I'm not going to just, for the sake of using time up—we had a long debate, and I think the city of Toronto should be treated just like every other municipality.

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Lorne Coe: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested. You're ready to vote?

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Fraser, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to PC motion number 30. Mr. Hardeman.

Mr. Lorne Coe: Give us a moment, please, Chair.

Mr. Ernie Hardeman: Mr. Chairman, though I want to point out that this one was filed after ours was already there—

The Chair (Mr. Peter Tabuns): Sorry, PC motion 30?

Mr. Ernie Hardeman: I think I'll withdraw this one.

The Chair (Mr. Peter Tabuns): PC motion 30 is withdrawn.

We go to government motion 30.1. Mr. McMeekin.

Mr. Ted McMeekin: I move that subsections 160.1(1) to (4) of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be struck out and the following instituted:

"Inquiry by commissioner re s. 5, 5.1 or 5.2 of Municipal Conflict of Interest Act

"(1) This section applies if the commissioner conducts an inquiry under this part in respect of an application under subsection (2).

"Application

"(2) An elector, as defined in section 1 of the Municipal Conflict of Interest Act, or a person demonstrably acting in the public interest may apply in writing to the commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of that act by a member of city council or a member of a local board (restricted definition).

"No application for inquiry during regular election

"(2.1) No application for an inquiry under this section shall be made to the commissioner during the period of time starting on nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that act.

"Timing

"(3) An application may only be made within six weeks after the applicant became aware of the alleged contravention.

"Exception

"(3.1) Despite subsection (3), an application may be made more than six weeks after the applicant became aware of the alleged contravention if both of the following are satisfied:

"1. The applicant became aware of the alleged contravention within the period of time starting six weeks before nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that act.

"2. The applicant applies to the commissioner under subsection (2) within six weeks after the day after voting day in a regular election, as set out in section 5 of the Municipal Elections Act, 1996.

“Content of application”

“(4) An application shall set out the reasons for believing that the member has contravened section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act and include a statutory declaration attesting to the fact that the applicant became aware of the contravention not more than six weeks before the date of the application or, in the case where an applicant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection (3.1), a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention during that period of time.”

The Chair (Mr. Peter Tabuns): Thank you. Mr. Rinaldi and then Mr. Hatfield.

Mr. Lou Rinaldi: Chair, this is again repeating—it’s the same as schedule 1, motion 9.1. Once again, we had a discussion then.

Just to clarify Mr. Hatfield’s comments on the last motion—a lot of these motions are the same. These deal mostly with the city of Toronto—well, all with the city of Toronto. They are similar to and mirror what we debated in the last couple of days for the other municipalities, hence light on debate.

We also have, as you know already, I’m sure, the Anti-Human Trafficking Act coming to this committee as soon as we’re done with this. I think that’s important too, that we give some attention to that.

I’m not trying to derail anything. If we debated something, the only thing that changes—you know, the 443 municipalities versus the city of Toronto. That was the intent.

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Mr. Percy Hatfield: Just in the interest of Hansard’s clarity, I believe Mr. McMeekin, in reading the section that he was moving, said, “and the following instituted” as opposed to “substituted.” I don’t know if that’s a legal problem. If not, then leave it. If it is, then change it to “substituted.”

Mr. Ted McMeekin: I’ll correct my record, Mr. Chair.

The Chair (Mr. Peter Tabuns): Mr. McMeekin has corrected his record. Any further discussion?

Mr. Ernie Hardeman: This amendment would restrict those who can apply to the integrity commissioner for an inquiry to the electorate and a person demonstrably acting in the public interest. I think we had a previous motion to this. I know the parliamentary assistant suggested—because we have something similar in schedule 1 to what we have here, it doesn’t mean that we shouldn’t do our best to make this one better even though we failed to convince the government side to make a single amendment from all our suggestions in the first half.

1600

I would want to point out—and I think that’s rather interesting—the process. I discussed that before we started our hearings or our clause-by-clause, the fact that the subcommittee had put in a very tight timeline for everything to be done. I think it was Tuesday before we started the clause-by-clause that we had to have all our

amendments in. All but two of the amendments that the official opposition put in were put in on time by the deadline. Most of the motions that we presently have before us, where there was a similar one between the oppositions and the government, the government turned them in well beyond the deadline after they had seen all our amendments.

When the amendments go in, there’s no secrecy about them, but I would say that it’s rather difficult to have that process and prepare all those amendments and then have the government just, for their sake, pull out a few words here and there and then put forward their amendments, suggesting that they’ve come to the realization of all these things and they’re going to vote for every one that’s theirs, but they made them all and put them all forward after the deadline.

Again, I’m not saying they shouldn’t have been able to put them forward. They followed the rules, but it seems strange that the government, which had created the bill, which had heard all the hearings, was the one who had the most amendments come in late. They also, incidentally, had the biggest staff to prepare those amendments. So I just question as to whether they actually reviewed the amendments coming from the opposition before they prepared those that they were going to counter the thing with.

I think it kind of points out, in the comments from the parliamentary assistant—I wouldn’t have said it until he started talking about how we can’t debate them twice because they’re in the other bill—the way they put them in there and they did the same thing with the amendments there.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Is there further debate? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, I don’t want to belabour this, but with all due respect I think last Friday I went to the member and asked him if there was anything specific we could help with on his amendments, and I asked him if he’d let me know by Friday evening or early this morning. I haven’t heard from him, Chair.

So, in light of co-operation, I think I extended an olive branch. I heard his comments last week and some of them were credible—the same for the NDP. I want to be very, very clear, but I did offer that olive branch and I haven’t heard, Chair. I stop there.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: Well, I think in response to that, maybe the member hasn’t been here that long, but the purpose of this committee is to hear the amendments from both sides, have the debate and then everyone makes the decision. You may have noticed that I didn’t have to make a deal; there were a lot of government amendments that I agreed with. You don’t make deals to see—well, if you could just be happy with a couple, just put forward a couple of amendments and then everybody will be happy.

We debate the amendments here, and then hopefully we’re all working on the idea that we’re trying to make a better piece of legislation. Not to say you can satisfy the

opposition by approving—"Why don't you tell me which two or which one or two amendments you would want passed that would make you happy?" That's not the point. We put all our amendments forward to try to make the bill better. If the government doesn't believe that that amendment makes the bill better, vote against it.

So far, I have to make the assumption there wasn't anything that we prepared that was going to make the bill better. I disagree with that, but I think if that's the way the government feels, then they shouldn't try to hide behind the fact, "Well, I tried to tell you if you put in the one that was least offensive to us, we could put that in and promise to vote on that for you." I think that's just totally inappropriate.

The Chair (Mr. Peter Tabuns): Mr. Hardeman and members of the committee, I ask you to focus on the motion before you on the floor. I have Mr. McMeekin and then I have Mr. Fraser.

Mr. Ted McMeekin: I just want to say with all due respect, Mr. Chairman, that I think this committee's working remarkably well, listening to each other. There are some you win and some you lose. I try not to whine when I lose one, but that's just how it happens to go. I think if there are things that the members who happen to represent the opposition parties around this, Chair, feel strongly about and they want to come to the parliamentary assistant, who is the point person on this, in a state of reasonableness and make that request, we're always open to hearing that. I think that's the strength of this committee under your very capable leadership, Mr. Chairman.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McMeekin. Members of the committee, please focus on the motion before us. I understand how people can get carried away and carried off, but please focus on the motion before us.

Is there anything further on the motion before us?

Mr. John Fraser: I think we should vote on it, Chair.

The Chair (Mr. Peter Tabuns): I think that's a very constructive approach. Ready for a vote?

Mr. Lorne Coe: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Dhillon, Fraser, Hatfield, Mangat, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): The motion is carried.

We now go to government motion 30.2.

Mr. Ted McMeekin: I move that subsection 160.1(5) of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be struck out.

The Chair (Mr. Peter Tabuns): Any debate on this? Mr. Rinaldi?

Mr. Lou Rinaldi: I would just repeat that we dealt with this motion in schedule 1, motion 9.2, and our argument is the same.

The Chair (Mr. Peter Tabuns): Any further discussion? Seeing none, you're ready for the vote? All those in favour of government motion 30.2, please indicate. It is carried.

We now go to PC motion 31. Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 160.1 of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be amended by adding the following subsections:

"Effect of election

"(6.1) The commissioner shall suspend an inquiry under this section if the member is nominated for an office on the city council.

"Same

"(6.2) The commissioner shall not continue an inquiry suspended under subsection (6.1) unless, within 30 days of the close of voting on voting day for the election for which the member had been nominated, the person who applied under subsection (2) submits a written request to the commissioner that the inquiry be continued.

"Same

"(6.3) An inquiry shall not be continued until subsection (6.2) until after the close of voting on voting day.

"Same

"(6.4) If an inquiry is suspended under subsection (6.1) and is not continued under subsection (6.2), the commissioner shall terminate the inquiry and shall give written notice of the termination to the member or former member whose conduct is concerned and to the person who applied under subsection (2)."

The Chair (Mr. Peter Tabuns): Would you like to speak to that Mr. Hardeman?

Mr. Ernie Hardeman: This amendment would halt the integrity commissioner's inquiry during the election period to avoid them being used for political purposes during campaigns. The key message is, this is based on a similar clause in the Members' Integrity Act which suspends investigation during the provincial writ period and requires a written request to restart the investigation. This amendment was requested by AMO and ROMA.

Lynn Dollin, during her presentation, said: "I do not think any of you would deny the political gain that could be had by the mere suggestion of a complaint being made. In fact, your act goes even further to say that the provincial IC shall suspend an inquiry if a member whose conduct is concerned resigns his or her seat. Neither of these are in Bill 68 and they should be."

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hatfield?

Mr. Percy Hatfield: Chair, I don't know if I should be doing this or if it's relevant or not, but I believe Mr. Hardeman said that an inquiry should not be continued "until" subsection (6.2) instead of "under" subsection 6.2.

Do you want me to keep doing that, when we mispronounce or missstate?

The Chair (Mr. Peter Tabuns): Actually, I do.

Mr. Percy Hatfield: Okay.

Mr. Ernie Hardeman: Change it, yes.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you're ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

1610

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Fraser, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to government motion 31.0.1. Mr. McMeekin?

Mr. Ted McMeekin: I move that section 160.1 of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be amended by adding the following subsections:

“Termination of inquiry when regular election begins

“(10.1) If the commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, the commissioner shall terminate the inquiry on that day.

“Same

“(10.2) If an inquiry is terminated under subsection (10.1), the commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the Municipal Elections Act, 1996, the person who made the application or the member or former member whose conduct is concerned applies in writing to the commissioner for the inquiry to be carried out.”

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: Chair, we debated this under schedule 1, government motion 10.0.1. We have the same argument, sir.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote?

All those in favour of government motion 31.0.1, please indicate. It is carried.

We go now to government motion 31.0.2. Mr. McMeekin.

Mr. Ted McMeekin: I move that subsection 160.1(11) of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be struck out and the following substituted:

“Timing

“(11) The commissioner shall complete an inquiry within 180 days after receiving the completed application, unless the inquiry is terminated under subsection (10.1).”

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Mr. Percy Hatfield: I believe the world is complete “the” inquiry, as opposed to complete “an” inquiry, as stated.

Mr. Ted McMeekin: Yes, “the” inquiry. Absolutely.

The Chair (Mr. Peter Tabuns): Corrected. Thank you. Further discussion on this?

Mr. Lou Rinaldi: Chair, once again, we debated this in schedule 1, government motion 10.0.2. Our arguments for supporting it are the same.

The Chair (Mr. Peter Tabuns): Any further debate? There being none, you're ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Dhillon, Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

We go to NDP motion 31.1. Mr. Hatfield?

Mr. Percy Hatfield: I move that section 160.1 of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be amended by adding the following subsection:

“Factors in determination

“(12) In exercising his or her discretion under subsection (12), the commissioner shall consider, among other factors, whether the subject matter of the inquiry could be appropriately addressed by city council under the code of conduct.”

The Chair (Mr. Peter Tabuns): Mr. Hatfield, did you wish to speak to that?

Mr. Percy Hatfield: It was requested by the integrity commissioners. It's related to motion 27.1. It allows the integrity commissioners to decide whether a Municipal Conflict of Interest Act contravention can be resolved quickly and cheaply by the municipality through the code of conduct process, rather than through a judge in the courts.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you're ready for the vote?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Fraser, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost. We go to government motion 31.2. Mr. McMeekin.

Mr. Ted McMeekin: I move that subsection 160.1(13) of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be struck out and the following substituted:

“Notice to applicant re decision not to apply to judge

“(13) The commissioner shall advise the applicant if the commissioner will not be making an application to a judge.”

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: I obviously recommend supporting this motion. It will make a consequential change related to government motion 25.6 to remove the integrity commissioners’ role in conducting Municipal Conflict of Interest Act inquiries on their own initiative.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, are you ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Dhillon, Fraser, Hardeman, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is carried.

We go to government motion 31.3. Mr. McMeekin.

Mr. Ted McMeekin: I move that subsection 160.1(14) of the City of Toronto Act, 2006, as set out in section 18 of schedule 2 to the bill, be amended by striking out “brief”.

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Again, this is the same as it was in schedule 1, only pertaining to the City of Toronto Act, motion 10.3. I encourage support.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I think, as it was last time, it’s fairly difficult to make a long presentation about removing the word “brief.”

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you’re ready for the vote? All those in favour of government motion 31.3, please indicate. All those opposed? It is carried.

We now go to the vote on the section as a whole. Mr. Hardeman, if you wanted to request a recorded vote, now is the time.

Mr. Ernie Hardeman: No.

The Chair (Mr. Peter Tabuns): You’re all good?

Shall schedule 2, section 18, as amended, carry? It is carried.

We now go to section 19 and PC motion 32. Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 161 of the City of Toronto Act, 2006, as set out in section 19 of schedule 2 to the bill, be amended by adding the following subsection:

“Same

“(2.0.1) Despite subsection (1), information may be disclosed to the registrar, ombudsman or auditor general about a matter that both offices are concurrently looking into, or to determine if the offices are concurrently looking into it, and either of the registrar, ombudsman or auditor general may disclose information to the commissioner or each other for the same purposes.”

The Chair (Mr. Peter Tabuns): Mr. Hardeman, and members of the committee, I’m ruling this amendment out of order as it is, in my opinion, unrelated to the subject matter of the bill or to the clause under consideration.

Mr. Hatfield, I’m just showing you that it’s even-handed.

Mr. Percy Hatfield: From this side. I don’t hear any “out of orders” over there.

Mr. Lorne Coe: We haven’t heard any of the government’s ruled out of order.

The Chair (Mr. Peter Tabuns): Oh, just you wait.

Mr. Lorne Coe: We could help you with that.

The Chair (Mr. Peter Tabuns): I’m sure you could help me with that.

We are now going to vote on section 19 as a whole. Again, Mr. Hardeman, if you had—

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): You want a recorded vote? Okay.

Ayes

Coe, Dhillon, Fraser, Hardeman, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): There are none against. It is carried.

We go to schedule 2, section 20. I have no amendments. Any discussion? Are you ready for the vote? Good. Shall schedule 2, section 20 carry? Carried. Done.

We now go to NDP motion 32.1. Mr. Hatfield.

Mr. Percy Hatfield: I move that schedule 2 to the bill be amended by adding the following section:

“20.1 Subsection 171(1) of the act is amended by striking out ‘its local boards (restricted definition)’ and substituting ‘its local boards (restricted definition), its public library boards.’”

The Chair (Mr. Peter Tabuns): Committee members, I am ruling this amendment out of order as it is, in my opinion, beyond the scope of the bill.

There’s that one, and then we go to NDP motion 32.2. Mr. Hatfield.

Mr. Percy Hatfield: I move that schedule 2 to the bill be amended by adding the following section:

“20.2 Subsection 178(3) of the act is amended by striking out ‘its local boards (restricted definition)’ and substituting ‘its local boards (restricted definition), its public library boards, boards of health and police services boards.’”

The Chair (Mr. Peter Tabuns): Committee members, I am ruling this amendment out of order as it is, in

my opinion, beyond the scope of the bill—which takes us to PC motion 32.3. This is your version 3. Mr. Hardeman.

Mr. Ernie Hardeman: Mr. Chair, I believe we had this discussion on the last day when there were three motions that had a wording change.

The Chair (Mr. Peter Tabuns): That's correct. Yes, Mr. Hardeman.

Mr. Ernie Hardeman: This is the third one of those, so I have here a copy for the committee.

The Chair (Mr. Peter Tabuns): We'll just take a second to make sure that it's distributed. I believe you all have it, but just in case, you will have it in your hands.

Mr. Percy Hatfield: This will materially advance the conversation.

The Chair (Mr. Peter Tabuns): Yes, it does.

Interjections.

The Chair (Mr. Peter Tabuns): I've been asked by the Clerk for a five-minute recess, just to make sure that all our papers are in order. You're agreeable?

The committee recessed from 1622 to 1632.

The Chair (Mr. Peter Tabuns): Committee members, we reconvene. We go to PC motion 32.3. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much, Mr. Chair, and my apologies for getting them mixed up.

I move that section 21 of schedule 2 to the bill be amended by adding the following subsection:

“(0.1) Subsection 189(1) of the act is amended by adding the following definition:

“‘materially advances’ means to measurably or identifiably advance;”

The Chair (Mr. Peter Tabuns): Thank you. If you'd like to speak to that, Mr. Hardeman?

Mr. Ernie Hardeman: This amendment would clarify the meaning of the phrase “materially advances” in regard to the definition of a meeting that must be open.

As we all know, the lack of clear definition of “meeting” led to a lot of confusion and disputes about whether there were improper closed meetings. We've had a number of hearings around the province about that. The definition of “materially advances” is necessary to make the new meeting definition clear and avoid this confusion in the future.

During his presentation to the committee, Warren Mar, commissioner of legal and bylaw services for the town of Whitby, said, “We believe that the definition of ‘materially advances,’ both as it's used in the new definition of a meeting and as it's used in the closed-session exemption for education and training, needs to be clarified. The Ombudsman, in making his rulings—especially most recently, last year, with regard to Oshawa city council—has not shown any differentiation between the definition of ‘advances’ and ‘materially advances.’ This has caused problems for municipal councils and has rendered, in our opinion, the education closed-session meetings of limited value. Clarity is lacking in interpreting how and when a meeting materially advances matters.”

I think it's important to recognize that this problem has been ongoing, with no definition of what should be allowed in a closed meeting as far as advancing the position.

We had presenters here, a number of different ones, at the meeting and again after the meeting, when I talked to them. A lot of the legal people that we talked to had a different opinion of what the word “material” means, that was added.

Obviously, the government saw fit to add the word “material,” so there must have been a reason for that. Yet, as the Ombudsman decision in Oshawa showed, no one seems to be able to identify what that means, because he didn't differentiate at all between that and just “advances.” So I think we're trying to clear that up by putting in a definition of what “materially advances” means.

The Chair (Mr. Peter Tabuns): Further discussion? There is none? People are ready for the vote?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Fraser, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go, then, to PC motion 33, which should be before you.

Mr. Ernie Hardeman: Mr. Chairman, I think I withdraw that one. That's just a translation for the previous motion.

The Chair (Mr. Peter Tabuns): It is withdrawn. Okay.

Then we have PC motion 33.0.1.

Mrs. Amrit Mangat: Where is that?

The Chair (Mr. Peter Tabuns): That should have been circulated to all of you. It's the replacement for number 33. Motion 33.0.1: Mr. Hardeman, you have it before you?

Interjections.

The Chair (Mr. Peter Tabuns): Mr. Hardeman and Mr. Clerk, if you have it before you, then we can proceed. Otherwise, do you need a recess?

Interjection.

The Chair (Mr. Peter Tabuns): Ah, so we go to 33.1. Mr. Hardeman, you have 33.1? Members of the committee, you have 33.1 before you? We're all on the same page? Mr. Hardeman, please proceed.

Mr. Ernie Hardeman: I move that subsection 21(2) of schedule 2 to the bill be struck out and the following substituted:

“(2) Subsection 189(4) of the act is repealed.”

The Chair (Mr. Peter Tabuns): Any discussion?

Mr. Ernie Hardeman: This amendment would require councillors to attend council meetings in person, instead of being allowed to participate by telephone or other electronic methods. We believe that an important part of transparency and accountability is the ability for people to attend local council meetings, to hear from and be heard by their councillors.

The government talks about challenges with bad weather, but in Toronto, where councillors have more public transit options, this is less of an excuse. Allowing councillors to attend meetings from the beach or allowing them to avoid facing their constituents when there's a tough decision isn't democratic and shouldn't be allowed.

Port Moody recently rescinded their municipal bylaw, which allowed electronic participation in council meetings, after two different councillors tried it on separate occasions and both times had technical difficulties. The council considered spending \$45,000 to upgrade their teleconferencing abilities, which resulted in outrage from their residents.

As one letter to the editor said, "I was outraged to learn of Port Moody council's experiment with councillors 'attending' council meetings by Skype. Why?" They went on to say, "Face-to-face interaction is crucial."

In his written submission to the committee, Paul Dubé, Ombudsman of Ontario, said, "I understand the policy reasons why official 'meetings' would be restricted to situations where the requisite number of members is physically present. This requirement reinforces that the public is entitled to attend" council "meetings and witness democratic decision-making...."

I think that if it becomes important that the majority are there, when you look at the majority of council—the people in the audience, if the majority are there, are people there so they can go and face their councillors who are making decisions on their behalf. I don't think that you can then define that one fewer than half of council could be doing it by phone, so one fewer than half of the people in the audience may not be able to face their councillor face to face while these decisions are made. For them, the Ombudsman of Ontario makes a good point, saying that that's part of the democratic process, to go to your local council meeting and face the public.

1640

I think those at this table who have sat on council will remember a lot of the meetings where it was a contentious issue—that the people came there to look to their councillors face to face in making their decision. A lot of times, the decisions, I hazard to guess, even came out with a different outcome because those people were in the audience. I don't think you get that same effect from the people on the phone, who are just told how many people are in the council chamber, as opposed to actually sitting there, facing their "accuser," as our law guarantees.

It becomes very important that we do everything we can to make sure that we keep it visible. I don't think

there would be anybody at this committee who would suggest that we should have a system where we could conduct this committee where the members of the committee could do it by phone. I don't think we would have it where anybody would think that the members of the Legislature should be able to call it in from Florida—or Arizona, is it?

Mr. Ted McMeekin: Arizona, yes.

Mr. Ernie Hardeman: Yes, exactly. I think it's accepted that if councillors and members of Parliament can't be here because of other commitments, they would not be a part of the discussion.

It was interesting, when we dealt with a previous amendment, about the government putting in that this type of communication, this type of council meeting, was not considered secure enough for an in-camera meeting, that in camera should not be allowed, when we did the Municipal Act part of it. But I think it holds true for all of the meetings. In that debate, I said I couldn't see why you would divide in camera apart from the regular council meeting. But I think there is a real challenge here, not about the secrecy of what is happening, but about the transparency and the accountability that are happening when people can phone in their position or lack thereof.

This motion is strictly to go back to the status quo. You can call in if you like, but you're not part of a council meeting. There's nothing that prevents council from allowing someone to be involved in the council meeting via teleconferencing, but to actually be officially a part of that council meeting, I think, is inappropriate.

The Chair (Mr. Peter Tabuns): Any further discussion on this matter? There being none—

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote.

Ayes

Coe, Hardeman.

Nays

Dhillon, Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to government motion 34. Ms. Mangat, please.

Mrs. Amrit Mangat: I move that section 21 of schedule 2 to the bill be amended by adding the following subsection:

"(3) Section 189 of the act is amended by adding the following subsection:

"Same

"(4.1) The applicable procedure bylaw shall not provide that a member of city council, of a local board of the city or of a committee of either of them, can participate electronically in a meeting which is closed to the public."

The Chair (Mr. Peter Tabuns): Thank you, Ms. Mangat. Mr. Rinaldi.

Mr. Lou Rinaldi: I would just add that this is the same as schedule 1, motion 14. The response would be the same, and I encourage support.

The Chair (Mr. Peter Tabuns): Mr. Hatfield, and then Mr. Hardeman.

Mr. Percy Hatfield: My response would be the same as the last time. I cannot support a motion that would prevent me from taking part by phone in an in-camera meeting, and not getting the information in camera that would perhaps influence my vote at the public meeting. Therefore, I can't support it.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: Comments to the parliamentary assistant: I was hoping, between the time we debated these two motions, that maybe the government had mellowed and decided that maybe, as the member from the New Democratic Party suggested, if you can do it for one, you can do it for the other. If we're looking at the security of the phone line, I don't see that as a big issue, because I believe we all use our phone for things that we think are fairly in need of being a private type of conversation. We do it all the time, and we don't have any problems.

I think, in fairness, there is less chance of—what should I say?—the wrong ears hearing what's going on at an in-camera meeting where someone's on the phone than when they're all in the room. Two days later, the message is on the street anyway. That wasn't because somebody was hacking; it was because somebody spoke about it. I think the risk of leakage from an in-camera meeting is at least as great presently as what it would be if you allowed the in-camera meetings. If we're going to allow them at all, I would be in favour of having them in camera too.

Of course, with my last motion, I'm opposed to them in both cases.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Fraser, Dhillon, Mangat, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

The Chair (Mr. Peter Tabuns): It is carried.

With that, we go to the vote on the section as a whole. You're ready for that vote? Mr. Hardeman, if you have any requests, now's the time. Yes?

Mr. Ernie Hardeman: Yes, I'd like a recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Fraser, Dhillon, Mangat, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

The Chair (Mr. Peter Tabuns): It is carried.

We now go on to NDP motion 34.1. Mr. Hatfield.

Mr. Percy Hatfield: I move that clause 190(2)(k) of the City of Toronto Act, 2006, as set out in section 22 of schedule 2 to the bill, be struck out.

The Chair (Mr. Peter Tabuns): Thank you. Do you wish to speak to that, Mr. Hatfield?

Mr. Percy Hatfield: It deletes the vaguely worded exception to the open-meeting rule that was specifically singled out by the IPC relating to "a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board." It is just too broad. You can drive a semi through there, and I don't think it belongs.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote? All those in favour of NDP motion 34.1, please indicate. All those opposed, please indicate. It fails.

We go to NDP motion 34.2. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 22 of schedule 2 to the bill be amended by adding the following subsection:

"(2) Section 190 of the act is amended by adding the following subsection:

"Same

"(11) Clause 6(1)(b) of the Municipal Freedom of Information and Protection of Privacy Act does not apply to a record that reveals the substance of deliberations of a meeting that is closed to the public because the subject matter being considered is a subject matter described in clause (2)(h), (i), (j) or (k)."

The Chair (Mr. Peter Tabuns): Did you wish to speak to that, Mr. Hatfield?

Mr. Percy Hatfield: It was requested by the Information and Privacy Commissioner. The privacy commissioner would prefer that part 27 be scrapped in whole, but offered this motion as a plan B. It removes the new exceptions from the scope of exemptions under section 6(1)(b) of the Municipal Freedom of Information and Protection of Privacy Act.

The Chair (Mr. Peter Tabuns): Any further debate? There being none, you're ready for the vote? All those in favour of NDP motion 34.2, please indicate. All those opposed? It is lost.

We're now going to the section as a whole. I see there is a notice from the NDP on this.

1650

Mr. Percy Hatfield: Yes. The New Democratic Party recommends voting against section 22 of schedule 2 to the bill. The reason for the notice rather than a motion is, if the committee wishes to remove an entire section from the bill, the rules of parliamentary procedure require that the committee vote against the section rather than pass a motion to delete it.

The Chair (Mr. Peter Tabuns): Thank you. Any further discussion? You're ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Dhillon, Fraser, Hardeman, Mangat, Rinaldi.

Nays

Hatfield.

The Chair (Mr. Peter Tabuns): It is carried.

We go on to NDP motion 34.3. Mr. Hatfield.

Mr. Percy Hatfield: I move that subsection 190.2(11.1) of the City of Toronto Act, 2006, as set out in section 23 of schedule 2 to the bill, be amended by adding "or under subsection 14.1(7) of the Ombudsman Act" after "under subsection (10)".

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. Did you wish to speak to that?

Mr. Percy Hatfield: It's the same as motion 15.3. It was requested by the Ombudsman. Municipalities must respond to the Ombudsman's investigative reports.

I guess I could have withdrawn it if the government voted against 15.3. I can't recall what 15.3 was, but I know the government voted against every NDP and PC motion that was put forward so far during these committee deliberations.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote is requested. You're ready to vote?

Ayes

Coe, Hardeman, Hatfield.

Nays

Fraser, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to government motion 35. Ms. Mangat.

Mrs. Amrit Mangat: I move that subsection 190.2(11.1) of the City of Toronto Act, 2006, as set out in section 23 of schedule 2 to the bill, be struck out and the following substituted:

"Requirement to pass resolution re report

"(11.1) If the city or a local board of the city receives a report from a person referred to in clause 190.1(1)(a) or (b) reporting his or her opinion, and the reasons for it, that a meeting or part of a meeting that was the subject-matter of an investigation by that person appears to have been closed to the public contrary to section 190 or to a procedure bylaw under subsection 189(2), the city or the

local board, as the case may be, shall pass a resolution stating how it intends to address the report."

The Chair (Mr. Peter Tabuns): Discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Again, Chair, we dealt with this in schedule 1, government motion number 16, and it will be the same rationale to support it.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote? Okay. All those in favour of government motion number 35? Opposed? It is carried.

Then we vote on the section as a whole. People are ready to vote? Shall schedule 2, section 23, as amended, carry? It's carried.

We go now to sections 24 and 25. I have no amendments there. I'd like to bundle the two together. Are there any objections?

Mr. Lorne Coe: Separate 25, please, so we vote on it separately.

The Chair (Mr. Peter Tabuns): Then we will vote on section 24, and then we'll go to 25. You're ready to vote on 24? Shall schedule 2, section 24 carry? It is carried.

We're now on section 25. Mr. Coe, you wish to speak to that?

Mr. Lorne Coe: Mr. Hardeman.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, you wish to speak to that?

Mr. Ernie Hardeman: I think it's very simple. This section removes the requirement for the auditor to approve the retention periods of records that are established by a municipality or local boards. It seems that the auditor is an independent authority, and having them approved seems like additional protection for taxpayers who want access to this information.

Would anyone trust the Liberal Party to determine how long the Liberal Party should retain the records? I think that's why the auditor should be the one who approves it, not the government itself.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Lorne Coe: A recorded vote, please.

The Chair (Mr. Peter Tabuns): All right. Any further debate?

A recorded vote has been requested on section 25.

Ayes

Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

We go now to PC motion number 36 and section 26. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 204(2) of the City of Toronto Act, 2006, as set out in section 26 of schedule 2 to the bill, be amended by striking out "20 consecutive weeks" and substituting "24 consecutive weeks".

The Chair (Mr. Peter Tabuns): Would you like to speak to that?

Mr. Ernie Hardeman: This amendment would extend parental leave provisions for city of Toronto councillors to 24 weeks, which is approximately six months. We were concerned that the current proposal of 20 weeks may be too short for some new parents. We have put forward this amendment to lengthen parental leave for municipal councillors to 24 weeks, and have a later amendment to provide the same for school board trustees that will give new parents up to six months automatic leave.

I think in my previous discussion—as we've heard a number of times, this resolution was the same change that's in the Municipal Act. A lot of councils don't meet as regularly as, like, a five-day week, so a period of time measured in months is, in a lot of cases, two per month. So measuring it in months and saying it should be six months instead of five and a half months makes more sense. There isn't much difference to the fact that—if it's 20 weeks, then all it means is, they have to go back and ask for further consideration, and council will extend it anyway. I think it makes more sense to have it at 24, which would be a six-month period of time for them to reorganize their lives as they have to deal with an increased size of family.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: I'll steal a page out of the government's playbook and not repeat everything I said previously. I would just say that I made a very passionate plea to extend this to 24 weeks and the government turned it down. They wanted to follow as opposed to lead in Canada on this issue.

The Chair (Mr. Peter Tabuns): Thank you. Further discussion?

Mr. Ernie Hardeman: Recorded vote, please.

The Chair (Mr. Peter Tabuns): Okay. There's no discussion? Ready for the vote?

Ayes

Coe, Hardeman, Hatfield.

Nays

Fraser, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to the vote on section 26 as a whole. Are you ready for the vote?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Fraser, Hardeman, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is carried. We now go to NDP motion 36.1. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 27 of schedule 2 to the bill be amended by adding the following subsection:

“(2) Subsection 212(1) of the act is amended by adding the following paragraph:

“11. Leaves of members of council due to chronic illness.”

The Chair (Mr. Peter Tabuns): Did you wish to speak to that?

Mr. Percy Hatfield: I will, briefly, Chair. We talked about this at length during our last meeting. I referenced the passing of Toronto councillor, Ron Moeser, who passed away just a couple of weeks ago. At the time, I suggested that if we had a clause in there that covered chronic illness, it would cover a lot of councillors who miss meetings through no fault of their own, through an illness, and the government, in its wisdom, voted that down for everybody else. So I imagine they're going to vote it down for city of Toronto councillors as well, which is very disappointing, to say the least.

1700

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: I would just say to the member opposite that I think it's the right intent. I think this is very, very vague.

I can share with you that AMO is not supportive, because there are already measures in place, as the member said, and then they would just have to ask again for an extension. Frankly, it has been working up until now. To the best of my ability, I'm not sure that any member of council has been turfed out because they were really, really sick.

So if something is working, and with this being very, very vague—that's the reason why we're not supporting it, Chair.

The Chair (Mr. Peter Tabuns): Mr. Hardeman?

Mr. Ernie Hardeman: I think if we read the amendment carefully, the amendment is to have a policy to deal with chronic leaves.

It would seem to me that as we look at the situation—and it could happen to more than one—it's appropriate for council to know that we're going to treat everybody the same, and equitably, as we go forward. I think it makes great sense to have a policy. Maybe the policy is you're not going to get any leave without a doctor's slip, but you should have a policy as to how you're going to treat everyone.

This is not saying what they have to do. It's just saying they have to have a policy to do that.

The city of Toronto requested even stronger amendments, to do more than this. But I think it's important that we make some effort to make sure that councils are prepared to look at the chronic illness of a councillor, and how they're going to deal with chronic illness, and maybe even how they're going to deal with their absence

in council while this is happening, depending on how long it is going to be.

All of that being set down in the code at council, I think, would be very helpful for all councils to know—the same as a code of conduct, but a code of how we deal with chronic illness when we have to face it in members of council.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): Recorded vote is requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Fraser, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to NDP motion 36.2.

Mr. Percy Hatfield: I move that section 27 of schedule 2 to the bill be amended by adding the following subsection:

“(3) Subsection 212(1) of the act is amended by adding the following paragraph:

“12. The administration, by the integrity commissioner, of annual public financial disclosure of the interests of members of council.””

The Chair (Mr. Peter Tabuns): Thank you. Any discussion?

Mr. Percy Hatfield: Thank you, sir. It was recommended by Toronto's integrity commissioner. The integrity regimes of other large North American cities include financial disclosures. For those reasons, I support it.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Bill 68 proposes appropriate measures to enhance accountability and transparency, and addresses the financial interests of council members—for example, the new obligation under the Municipal Conflict of Interest Act where a member has to file a written statement after the member discloses a pecuniary interest.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote? Okay, I'm going to call the vote. All those in favour of NDP motion 36.2, please indicate. Opposed? It is lost.

We now go to vote on section 27 as a whole. Shall schedule 2, section 27 carry? It is carried.

We now go to section 28. I note there is an NDP notice.

Mr. Percy Hatfield: Schedule 2 to the bill, section 28: The New Democratic Party recommends voting against section 28 of schedule 2 to the bill.

That's because part 28 requires municipalities to submit to provincial integrated service plans. The city of Toronto points out that municipalities—and I agree—are mature orders of government, and if the province wishes to come to an arrangement about integrated service plans, the province should negotiate with the municipality instead of imposing its will on that municipality. For that reason, I shall vote against section 28 of schedule 2 to the bill.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I'm going to take the advice of the New Democratic Party and vote against this section. I do think it gives far too broad a power to the minister to deal with—it's a sledgehammer trying to put a tack in, I think.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Lorne Coe: Recorded vote, please, Chair.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested. Any further discussion?

Ayes

Fraser, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

The Chair (Mr. Peter Tabuns): It is carried.

Colleagues, for schedule 2, sections 29 and 30, I have no amendments. I'd like to bundle them together. Is there an objection? There being none, shall schedule 2, sections 29 and 30 carry? Carried.

We go now to NDP motion 36.3. Mr. Hatfield.

Mr. Percy Hatfield: I move that schedule 2 to the bill be amended by adding the following section:

“30.1 The act is amended by adding the following section:

“Restriction, fees for complaints re accountability

“259.1 No fee or charge shall be imposed on a person for filing a complaint to,

“(a) the integrity commissioner;

“(b) the auditor general;

“(c) the ombudsman;

“(d) the registrar referred to in section 168; or

“(e) an investigator referred to in subsection 190.2(1).””

The Chair (Mr. Peter Tabuns): Mr. Hatfield, members of the committee, I'm ruling this amendment out of order, as it is, in my opinion, unrelated to the subject matter of the bill or to the clause under consideration.

Schedule 2, sections 31 to 46, inclusive: I have no amendments. Are people agreeable to bundling sections 31 to 46, inclusive? All are agreeable? Good. Shall schedule 2, sections 31 to 46, inclusive, be carried? Opposition? There's none. Carried.

That now takes us to government motion 37. Ms. Mangat.

Mrs. Amrit Mangat: I move that subsections 344(3) and (3.1) of the City of Toronto Act, 2006, as set out in subsection 47(3) of schedule 2 to the bill, be amended by striking out “the crown” wherever it appears and substituting in each case “the crown in right of Ontario”.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Mangat. Any further discussion on this? Mr. Rinaldi.

Mr. Lou Rinaldi: I think it's fairly clear, but the motion would add the words “in right of Ontario” to make it clear that authority for municipalities to apply for a tax sale process pertains only to lands that are vested in the provincial crown.

The Chair (Mr. Peter Tabuns): Further discussion? There is none. You're ready to vote on this? Okay. All those in favour of government motion 37, please indicate. Opposed? It is carried.

Then we vote on the section as a whole. You're ready to vote? Shall schedule 2, section 47, carry, as amended? Carried.

Now we have sections 48 to 53, where I have no amendments. I would like to bundle them.

Mr. Percy Hatfield: Please do.

The Chair (Mr. Peter Tabuns): Please do? Good. You're all ready? Mr. Hardeman.

Mr. Ernie Hardeman: Which ones are we voting on?

The Chair (Mr. Peter Tabuns): Sorry: 48 to 53, inclusive.

1710

Mr. Lorne Coe: Sever 53, please.

The Chair (Mr. Peter Tabuns): Sever 53? I'll make it 48 to 52, inclusive, with 53 separate. With that, Mr. Hardeman?

Mr. Ernie Hardeman: Yes, that's fine.

The Chair (Mr. Peter Tabuns): Ready for the vote? Shall schedule 2, sections 48 to 52 carry? Carried. Good.

We go now to section 53. Mr. Hardeman.

Mr. Ernie Hardeman: This is just a general comment, not to make amendments, but it seems like it may be an excessive step that ministerial consent is required for an extension under 373.1 for properties escheated to the crown which also have tax arrears. Maybe there could be something short—a 15-day extension with ministerial consent. It just seems to me that, again, we're going overboard to deal with a problem that hasn't surfaced anywhere. I think maybe dealing with it in a shorter period of time would be helpful.

The Chair (Mr. Peter Tabuns): Further discussion? There is none. You're ready for the vote on schedule 2, section 53?

Interjections.

The Chair (Mr. Peter Tabuns): Carried.

We go now to government motion 38. Ms. Mangat.

Mrs. Amrit Mangat: I move that subclauses 350(7)(b)(i) and (ii) of the City of Toronto Act, 2006, as set out in subsection 54(5) of schedule 2 to the bill, be amended by striking out “the crown” wherever it appears

and substituting in each case “the crown in right of Ontario”.

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, it's the same as my rationale from before. It's just to make sure that we're talking about the crown here in Ontario.

The Chair (Mr. Peter Tabuns): Fair enough. Further discussion? There being none, you're ready for the vote? All those in favour of government motion number 38, please indicate. Opposed? It is carried.

Now we vote on the section as a whole. You're ready for the vote? Shall schedule 2, section 54, as amended, carry? Carried.

We now go to PC motion number 39. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsections 351(8) and (9) of the City of Toronto Act, 2006, as set out in subsection 55(6) of schedule 2 to the bill, be struck out and the following substituted:

“Forfeiture

“(8) If no person makes an application under subsection (4) within 10 years after the payment into court under subsection (2), the amount paid into court, together with accrued interest, is deemed to be forfeited,

“(a) if, at the time of the registration of a tax arrears certificate, the land was vested in the crown because of the circumstances described in subsection (1.1), to the crown in right of Ontario, and the public guardian and trustee may be paid that amount in the name of the crown on filing a written request for payment out of court with the accountant of the Superior Court of Justice in the form provided by the accountant; or

“(b) in any other circumstance, to the city.

“Same

“(9) If, after the court determines entitlements under subsection (7), there remains any amount paid into court 10 years after the payment into court under subsection (2), the remaining amount, together with accrued interest, is deemed to be forfeited,

“(a) in the circumstances described in clause (8)(a), to the crown in right of Ontario, and the public guardian and trustee may be paid that amount in the name of the crown on filing a written request for payment out of court with the accountant of the Superior Court of Justice in the form provided by the accountant; or

“(b) in any other circumstance, to the city.”

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Did you wish to speak to that?

Mr. Ernie Hardeman: Yes. Under Bill 68, the city of Toronto is no longer eligible for remaining proceeds from tax arrears sales. This amendment would restore that right to apply for proceeds that have not been claimed.

Our municipalities are struggling to make ends meet and deliver services their residents depend on. We should be looking at ways to reduce their burdens, but instead the government is adding additional cost and, buried in this bill, removing some of the revenue that they previously received from tax arrears sales. While most

municipalities don't receive a lot of money from these sales, it is still revenue that is being taken away from them with no public announcement, no consultation and no explanation.

The city of Toronto passed a motion stating that it "vigorously objects to proposed revisions of Bill 68 that would see excess tax sale proceeds go to the court for 10 years after which are forfeited to the crown."

The township of O'Connor said in their submission, "The township's first area of concern relates to the fact that many of the proposals, and, in particular, the one that is addressed further on in this correspondence, were not subject to appropriate public consultation.

"When the province entered into consultation with respect to proposed changes to municipal legislation, none of the consultation questions related to tax sale processes or revenues. Municipalities and members of the public participated in good faith in the consultation review process, but were not given an opportunity to provide input into these matters, now before the provincial Legislature."

Again, this is a similar response that we've had before. The time when there is a tax sale, because the taxes have not been paid on a property—and we all know, around this table, that when there's a tax arrears and it goes for a tax sale, the first money coming out of that sale goes to the municipalities, to pay back-taxes and pay all costs related to the process of collecting that tax—for their legal fees to go to court and so forth. After that, it goes to the owner of the property on the deed—of the unpaid taxes.

This bill says that if there is no owner—if it belonged to a corporation that has now been delisted, or it belongs to someone who has passed away, leaving no heirs—the remaining money should go first to the courts for 10 years, and then should go to the province, in the right of the crown of Ontario, as opposed to going to the municipality—in this case, in this resolution, the city of Toronto.

No one talked about that. No one said that this was going to happen. The city of Toronto says they really oppose it; they strongly oppose it.

It seems strange that, without telling anyone, the government is putting legislation in place to go home with that money that, in fairness, they have done nothing for either. In my opinion, it should stay with the city. They were the ones that went through all the process of having to foreclose on the property, having to wait for their taxes and so forth. In cases where there is money left over, I think it should stay with that municipality. That's why we're putting this motion forward. It's almost like the status quo. The people who always have been getting it should keep getting it.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: I support the motion.

The Chair (Mr. Peter Tabuns): Any further debate?

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested. We're ready to vote?

Ayes

Coe, Hardeman, Hatfield.

Nays

Fraser, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to vote on section 55 as a whole.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

Colleagues, I now have sections 56 to 69, where I have no amendments and no notice from any party asking to vote against. I'd like to bundle them. Are you agreeable? Excellent.

Shall schedule 2, sections 56 to 69, inclusive, carry? Carried.

We go to government motion 39.1, in section 70. Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, I withdraw 39.1.

The Chair (Mr. Peter Tabuns): You withdraw? My goodness. All right. So 39.1 is withdrawn.

1720

That leaves us to vote on section 70. You're ready to vote? Shall schedule 2, section 70 carry? It is carried.

We now go to the vote on schedule 2, as amended, as a whole. You're ready to vote? Shall schedule 2, as amended, carry? Carried.

We now go to schedule 3. I have no amendments in the first six sections. I propose to bundle them. Are there any objections? There are none. Shall schedule 3, sections 1 to 6, inclusive, carry? Carried.

Okay. That takes us to government motion 39.2, in section 7. Ms. Mangat, please.

Mrs. Amrit Mangat: I move that subsection 8(1) of the Municipal Conflict of Interest Act, as set out in section 7 of schedule 3 to the bill, be amended by striking out "any person" in the portion before clause (a) and substituting "an elector, an integrity commissioner of a municipality or a person demonstrably acting in the public interest".

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: Obviously, I recommend supporting this motion. With this change, complaints under the Municipal Conflict of Interest Act could still be put forward to the courts, but only by electors, integrity commissioners or a person demonstrably acting in the public interest, rather than any person. This language resembles

a recommendation by Justice Cunningham in the Mississauga inquiry report.

The Chair (Mr. Peter Tabuns): Any debate? Mr. Hardeman.

Mr. Ernie Hardeman: This amendment would again restrict those who can apply to a judge to determine whether a member has contravened section 5, 5.1 and 5.2. Similar to the government's other amendments, this would allow a person demonstrably acting in the public interest to apply.

This amendment is unnecessarily vague and will lead to disputes about what defines "a person acting in the public interest." We believe that anyone with a connection to the municipality, such as those who live there, those who own property and can vote there, and those who do business in or with the municipality should have the right to an inquiry.

Again, Lynn Dollin, the president of AMO, said, "It should be somebody doing work within the municipality, somebody directly involved that has a stake in the game as opposed to somebody from another country who could decide that they wanted to question this."

During his presentation, Patrick Daly, president of the Ontario Catholic School Trustees Association, said, "Allowing persons from outside the board's or a municipality's jurisdiction to apply to a judge for a potential violation of the act would invite many frivolous and vexatious claims to be made against a school board's trustees."

We've had this discussion on a number of other issues with similar government amendments. Until we clarify who is eligible and how broad that scope is as to who can apply, we have to accept that they could come from mysterious places, people with no direct interest.

I think we see this a fair bit in our society today. People who have a special interest in an issue will go to as many places as they can, to bring it to the courts and to have courts decide on a certain issue. That may very well be in my hometown—it may be in your hometown, too, Mr. Chair—where they decide to make an example, or have an example where they can prove their point. But that's going to be at the expense of municipalities.

That's why we think it's so important that we make sure we clearly define who is eligible to facilitate one of those actions to happen. This one here doesn't clearly define who that is. It asks more questions than it has answers.

The Chair (Mr. Peter Tabuns): Further commentary? There being none—

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested. You're ready to vote?

Ayes

Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coc, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

We go to government motion 39.3. Ms. Mangat?

Mrs. Amrit Mangat: I move that paragraph 1 of subsection 8(3) of the Municipal Conflict of Interest Act, as set out in section 7 of schedule 3 to the bill, be struck out and the following substituted:

"1. The applicant applied to an integrity commissioner for an inquiry under section 223.4.1 of the Municipal Act, 2001 or under section 160.1 of the City of Toronto Act, 2006 in accordance with those sections."

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, this motion would amend the language in this condition as a consequential change related to government motion 10.0.1 respecting termination of an MCIA inquiry.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I do support this amendment as to the fact that it is to deal with the fact that you cannot file, you cannot be within the six-week time frame, if there's an election that comes up. I believe that not having it being done during an election is an appropriate amendment.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote. All those in favour of government motion 39.3, please indicate. Opposed? It is carried.

We now go to government motion 39.4. Mr. McMeekin.

Mr. Ted McMeekin: I move that paragraph 2 of subsection 8(3) of the Municipal Conflict of Interest Act, as set out in section 7 of schedule 3 to the bill, be struck out and the following substituted:

"2. The integrity commissioner conducted an inquiry under section 223.4.1 of the Municipal Act, 2001 or under 160.1 of the City of Toronto Act, 2006 and the commissioner,

"i. has advised the applicant under subsection 223.4.1(13) of the Municipal Act, 2001 or under subsection 160.1(13) of the City of Toronto Act, 2006 that the commissioner will not be making an application to a judge,

"ii. has not completed the inquiry within the time limit set out in subsection 223.4.1(11) of the Municipal Act, 2001 or subsection 160.1(11) of the City of Toronto Act, 2006, or

"iii. has terminated the inquiry under subsection 223.4.1(10.1) of the Municipal Act, 2001 or subsection 160.1(10.1) of the City of Toronto Act, 2006."

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: Mr. Chair, this motion will make a consequential change related to government motion 3.5, which will remove the integrity commissioners' role of conducting these inquiries on their own initiative; and government motion 10.0.1, respecting termination of a Municipal Conflict of Interest Act inquiry.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Thank you, sir. I believe Mr. McMeekin left out the word “section” in front of “160.1 of the City of Toronto Act.”

Mr. Ted McMeekin: Let the record show that I lament that greatly and will add the word “section.”

The Chair (Mr. Peter Tabuns): Thank you. Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: Yes, I have a question to the parliamentary assistant. Does this still include the fact that the judge would also not deal with it during the election period?

Mr. Lou Rinaldi: Judges are included, apparently.

Mr. Ernie Hardeman: Okay, thank you.

The Chair (Mr. Peter Tabuns): Further discussion, Mr. Hardeman?

Mr. Ernie Hardeman: No. I’m fine.

The Chair (Mr. Peter Tabuns): Nope? Anyone else?

Mr. Percy Hatfield: Just if I could—

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Not to belabour this at all, but if something has been said to a judge and the judge is reviewing and going to make a ruling—I don’t know if Carolyn or somebody else wants to assure us that that ruling cannot be passed down during the election period, because I don’t think we can tell a judge when he’s going to hand down his ruling.

I didn’t read, up until this point, anything in these sections that said—I mean, we talked about when you can do it and when you can’t do it, but I don’t believe we ever touched on the issue of when a judge’s ruling can be handed down.

1730

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. Mr. Hardeman, do you wish to speak?

Mr. Ernie Hardeman: I think Mr. Rinaldi—

Mr. Lou Rinaldi: Let me clarify something.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi. If you don’t mind, Mr. Hardeman.

Mr. Ernie Hardeman: Yes.

Mr. Lou Rinaldi: Sorry. I think this will help. A judge would still consider this only for—

Interjection: It’s only for the ICs.

Mr. Lou Rinaldi: For JCs.

Interjection: ICs.

Mr. Lou Rinaldi: ICs. Sorry.

The Chair (Mr. Peter Tabuns): Lou, you’re going to have to pull the mike closer to you.

Mr. Lou Rinaldi: Oh, sorry. So a judge would still consider this only for ICs.

Mr. Ernie Hardeman: For what?

Mr. Lou Rinaldi: Integrity commissioners.

Mr. Ernie Hardeman: I’m afraid you’ve lost me on that first one.

Mr. Lou Rinaldi: Maybe we’ll get the legal person.

The Chair (Mr. Peter Tabuns): Yes. Thank you, Mr. Rinaldi. Legal counsel returns. As before, if you’ll introduce yourself for Hansard.

Ms. Carolyn Poutiainen: It’s Carolyn Poutiainen, counsel for the ministry.

The Chair (Mr. Peter Tabuns): Thank you, Carolyn.

Ms. Carolyn Poutiainen: So the question is, would the judge’s powers to consider an application under the MCIA be affected by an election period? The answer is no, there’s nothing proposed to address that for the judge.

The Chair (Mr. Peter Tabuns): Thank you. Further questions? Mr. Hatfield and then Mr. Hardeman.

Mr. Percy Hatfield: I could be wrong, but I thought Mr. Hardeman asked if a judge’s ruling could come down during an election period, and Mr. Rinaldi said no. But what you’re saying is, we have no control over when a judge issues his ruling. Is that correct?

Ms. Carolyn Poutiainen: Yes.

Mr. Percy Hatfield: So a judge could make a ruling during an election period?

Ms. Carolyn Poutiainen: Yes.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Further questions? Mr. Hardeman, you have a question?

Mr. Ernie Hardeman: I just want to—

The Chair (Mr. Peter Tabuns): You need to get closer to your microphone as well.

Mr. Ernie Hardeman: Thank you very much. I just wanted to clarify that I understood. If the application for the hearing was made to the commissioner prior to the election, could then the commissioner, since he’s got the application and decides it’s going to a judge, give it to the judge just before the election or during the election, or, according to the rules, would he be obligated to withhold any action until after the election to make sure that we didn’t cloud the issue for a candidate?

Ms. Carolyn Poutiainen: That’s addressed in government motion 39.6, that “No application shall be made by an integrity commissioner” during a certain time period.

Mr. Ernie Hardeman: And is there anything that prevents an—okay. So I know the election is next week; the writ drops. Can the integrity commissioner take an application that he received and give it to a judge prior to the election?

Ms. Carolyn Poutiainen: Again, in government motion 39.6, “No application shall be made by an integrity commissioner … during the period of time starting on nomination day for a regular election … and ending on voting day in a regular election.”

Mr. Ernie Hardeman: Okay.

The Chair (Mr. Peter Tabuns): Okay. Mr. Hatfield?

Mr. Percy Hatfield: I don’t know if we’ll have to go back and revisit this from earlier, Carolyn, if you could—

The Chair (Mr. Peter Tabuns): Ms. Poutiainen?

Ms. Carolyn Poutiainen: Okay. Sorry.

Mr. Percy Hatfield: Is it possible to write legislation that says, if we’re going to send complaints to a judge, the ruling could only be accepted within this period or else that period, but it could not be delivered during an election period because it could have an impact on an election campaign? Can you write language that says that if we’re going to send something to a judge—we can’t tell them how long to make a ruling, but can you ask the

judge to either do it before or after a certain date; otherwise, he might be impacting on the result of an election?

Ms. Carolyn Poutiainen: That would be a policy question.

Mr. Percy Hatfield: Okay. Who can I ask the policy of?

The Chair (Mr. Peter Tabuns): If you've finished asking the legal questions—

Mr. Percy Hatfield: Well, I guess I have for now, yes.

The Chair (Mr. Peter Tabuns): Okay.

Thank you for your assistance.

Mr. Percy Hatfield: Thank you, Chair.

The Chair (Mr. Peter Tabuns): If you have a question, Mr. Rinaldi may be willing to address it. Do you want to phrase it again, Mr. Hatfield?

Mr. Percy Hatfield: Well, I'll just lay it out there, Lou, that we didn't discuss this earlier when we were dealing with the conflict-of-interest act, I don't believe. So we didn't take into account, if something goes to a judge, when the judge's ruling comes down. Can you somehow say to the committee that you have heard this new line of thinking and you're going to have it addressed by somebody so that a judge's ruling will not impact the results of a municipal election?

Mr. Lou Rinaldi: It's what we have in front of—

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: Sorry. It's what we have in front of us, Mr. Hatfield. But I think if I understood legal correctly, an integrity commissioner cannot go to a judge once, you know—the writ period, right?

Mr. Percy Hatfield: I know that.

Mr. Lou Rinaldi: So the judge cannot do anything.

Mr. Percy Hatfield: Lou, I'm not talking about giving it to a judge. I'm talking about the judge's ruling. The judge is going to make a ruling on what evidence has been presented. What I'm suggesting is, I don't believe any of us in this room wants that ruling to come down during an election period.

Mr. Lou Rinaldi: I'm not sure how, through policy, any elected official can tell a judge what to do.

Mr. Percy Hatfield: I know. That's why I've asked you this. At first, you said the judge's ruling would not come down during an election period. We heard from legal counsel that that might happen. What I'm asking you is, can you come up with a way and convince this committee that it won't happen?

The Chair (Mr. Peter Tabuns): Thank you. Mr. Rinaldi, do you want to speak to that?

Mr. Lou Rinaldi: Sure. What I'm struggling with is, if that happens and if a judge finds somebody has done wrong—I guess I'm just speculating here—do you want the judge to keep quiet, if a person really had something found against them? If that happened in my municipality, I wouldn't be happy voting for somebody or with somebody receiving votes who has done a criminal act or falsified whatever documents. I think that's not the integrity commissioner, but ultimately the judge. They have the ultimate say. I guess, thinking differently than what

you're thinking—I'm not saying I'm right—I would hope that would happen.

The Chair (Mr. Peter Tabuns): Okay. Thank you, Mr. Rinaldi. I had Mr. Hardeman, and then I had Mr. McMeekin and Mr. Fraser.

Mr. Ernie Hardeman: No, I think I'm fairly well—

The Chair (Mr. Peter Tabuns): You're done? Excellent.

Mr. McMeekin.

Mr. Ted McMeekin: I go to the spirit of what we're trying to do. We're trying to prevent somebody who's running for political office in good faith from somehow bearing the brunt of a decision during an election period that could change the result, be that person innocent or guilty or whatever.

I'll tell you who I'd be angry with: I'd be angry with the municipal integrity commissioner if I felt that they deliberately forwarded something on to a judge in order to have some sway in terms of the election. If I were sitting on that council, I'd fire that integrity commissioner real fast.

Interjection.

The Chair (Mr. Peter Tabuns): I've got Mr. Fraser and then I'll go back to you. Mr. Fraser.

Mr. John Fraser: We're talking about the Municipal Act, so we're talking directly about the integrity commissioners inside the act and what the prohibition is on them putting forward a complaint or an inquiry during an election period—which is entirely appropriate.

It would be inappropriate to suggest that judges do not have the discretion, if there's a complaint before them, to make a judgment on that complaint based on the evidence before them and the timeliness. It wouldn't be appropriate for us to try to somehow change that in this bill.

I think the measures here specifically talk to the activities of an integrity commissioner, and I think it's an appropriate amendment that provides the kind of protection that should exist.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Thank you to the government side for the clarification. I'm glad we clarified somewhat. I think of Hillary Clinton, and the director of the FBI saying, "We're going to reopen something," and the impact that may have had on the outcome of that election.

The Chair (Mr. Peter Tabuns): Okay. Any further discussion on this matter? Fine. Ready to go to the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.
We go to government motion 39.5. Mr. McMeekin.

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Mr. Ted McMeekin: I move that paragraph 4 of subsection 8(3) of the Municipal Conflict of Interest Act, as set out in section 7 of schedule 3 to the bill, be struck out and the following substituted:

“4. The application under this section is made within six weeks after the earlier of the following:

“i. the day the commissioner advised the applicant under subsection 223.4.1(13) of the Municipal Act, 2001 or under subsection 160.1(13) of the City of Toronto Act, 2006 that the commissioner will not be making an application to a judge, and

“ii. the last day on which the commissioner is required under subsection 223.4.1(11) of the Municipal Act, 2001 or under subsection 160.1(11) of the City of Toronto Act, 2006 to complete the inquiry referred to in paragraph 2 of this subsection, and

“iii. the day the inquiry was terminated under subsection 223.4.1(10.1) of the Municipal Act, 2001 or subsection 160.1(10.1) of the City of Toronto Act, 2006.”

The Chair (Mr. Peter Tabuns): Thank you, Mr. McMeekin. Mr. Rinaldi?

Mr. Lou Rinaldi: Chair, once again, this motion will make consequential changes related to government motion 3.5, which would remove the integrity commissioners’ role in conducting inquiries on their own initiative, and government motion 10.0.1, respecting termination of a Municipal Conflict of Interest Act inquiry.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: This amendment adds a paragraph below which allows an application to a judge to determine whether a member has contravened section 5, 5.1, and 5.2 within six weeks of an integrity commissioner terminating an inquiry due to an election, the day the inquiry was terminated, under section 223.4.1(10.1) of the Municipal Act or the City of Toronto Act.

Nomination day is the fourth Friday in July, so that would be the latest date that an integrity commissioner would terminate an ongoing investigation. This amendment says that the applicant must apply to the judge within six weeks of that happening, which means that they are forced to file that application during the election.

Stakeholders specifically asked that, similar to our Members’ Integrity Act, complaints not be allowed during an election period because of the danger of them being used as campaign smear tactics.

The government put in amendments to prevent complaints being filed with the integrity commissioner and created a process to deal with them after the election. Now they’re allowing them to go through the back door.

AMO spoke against this. The president said, “I do not think any of you would deny the political gain that could be had by the mere suggestion of a complaint being made. In fact, your act goes even further to say that the provincial” integrity commissioner “shall suspend an inquiry if a member whose conduct is concerned resigns

his or her seat. Neither of these are in Bill 68 and they should be.”

Again, I just point that out. It seems to me that the process and timing, because we have so much longer of a nomination period, between the time the nomination happens—which was changed in the previous act, just last year—and the election date, that the integrity commissioner can work in that time getting to the point of where they want to appoint a judge and still get it done beforehand, but then we are creating the situation that Mr. Hatfield was talking about, where the judge’s investigation could very well be during the election.

I feel there should be something not to codify that, but something that actually directs us towards getting to the point where we do everything we can to make sure that the Hillary Clinton events don’t happen in our elections, where there’s any question that in fact somebody with limited information could skew the election results for an individual person. I think in the legislation we have to do all we can to prevent that. I’m not sure, in this amendment, that we’re doing that.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you’re ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Fraser, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

We now go to government motion 39.6. Mr. McMeekin.

Mr. Ted McMeekin: I move that section 8 of the Municipal Conflict of Interest Act, as set out in section 7 of schedule 3 to the bill, be amended by adding the following section:

“No application by integrity commissioner during regular election

“(4.1) No application shall be made by an integrity commissioner of a municipality during the period of time starting on nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that act.”

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: Chair, we’ve had this discussion quite a bit that kind of flows into this. Again, this amendment will provide that integrity commissioners could not bring forward applications to court for Municipal Conflict of Interest Act matters during a regular election period.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Ernie Hardeman: I guess it's evident I read these amendments one at a time, because this is dealing with what I just spoke to in the last amendment. But it's also slightly a little bit more. This is dealing with, in that nomination period, that the integrity commissioner can't present it to a judge. Yet the people who want to apply in that period of time can apply to the integrity commissioner, even though the integrity commissioner isn't going to deal with it or can't send it to a judge.

It seems to me that we should do a little bit more to make the applications for that—to make sure we don't have to stick to the six-week period, and that they don't have to file it or don't file it in that period of time too.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote? All those in favour of government motion 39.6, please indicate. All those opposed? It is carried.

We go now to PC motion number 40. Mr. Coe.

Mr. Lorne Coe: I move that section 9 of the Municipal Conflict of Interest Act, as set out in section 7 of schedule 3 to the bill, be amended by adding the following subsections:

“Exception

“(3) A judge may dismiss an application if the judge is of the opinion that,

“(a) a person applied under subsection 8(1) in bad faith or for reasons that are frivolous or vexatious; or

“(b) the application does not contain a sufficient basis on which to make a determination.

“Same

“(4) The judge shall publish brief reasons for a decision made under subsection (3).”

The Chair (Mr. Peter Tabuns): Thank you. Mr. Coe.

Mr. Lorne Coe: Part of the narrative for this amendment goes back to some of our earlier discussion, committee members. It would allow a judge to dismiss complaints that are frivolous or vexatious, rather than being forced to incur taxpayers' money to investigate them.

However, an important distinction here is that the judge would still be required to publish the reasons for this decision. That's consistent with the openness and transparency that we have spoken of all along as part of this process.

The Chair (Mr. Peter Tabuns): Any other speakers? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, this motion, I believe, is unnecessary because a judge can already dismiss an application for reasons such as the application appears to be frivolous or vexatious.

The Chair (Mr. Peter Tabuns): Thank you. Further discussion? There is none?

Mr. Ernie Hardeman: Recorded vote.

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The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Fraser, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to vote on section 7. People are ready to vote? Shall schedule 3, section 7, as amended, carry? Carried.

Members of the committee, I don't have amendments for sections 8, 9, 10 and 11. I propose to bundle them. Any requests or concerns? Fine. Shall schedule 3, sections 8, 9, 10 and 11 be carried? Carried.

We now get to vote on schedule 3 as a whole. You're ready to vote? Shall schedule 3, as amended, carry?

Interjections: Carried.

Mr. Ernie Hardeman: Hold on, hold on.

The Chair (Mr. Peter Tabuns): I already heard a “carried.” Done.

Okay, we're now on schedule 4. For sections 1 and 2, I have no amendments. I'll bundle them together unless there are objections. Shall schedule 4, sections 1 and 2 carry? Carried. Good.

We now have NDP amendment 42.1. Mr. Hatfield.

Mr. Percy Hatfield: 42.1?

The Chair (Mr. Peter Tabuns): I have 42.1.

Mr. John Fraser: It's 40.1.

The Chair (Mr. Peter Tabuns): Sorry. Yes, I have 42.1. I know it sounds out of sequence, but it's the order in which they came. It actually is the correct sequence. It amends schedule 4, and it would create a new section, 2.1.

Do you have 42.1 in front of you? Everyone has it? Mr. Hatfield?

Mr. Percy Hatfield: I have 42.1 in front of me. I thought we were going to deal with 41 first. In 41, the government unanimous consent—

Interjections.

Mr. Percy Hatfield: We didn't do 41. We have gone to 42.1.

The Chair (Mr. Peter Tabuns): Yes—

Interjections.

Mr. Percy Hatfield: Who's on first?

The Chair (Mr. Peter Tabuns): Excuse me one second, please.

For what it's worth, motions 41 and 42 apply to section 3, and 42.1 creates a new section, 2.1. We had a numbering problem, but I am going in the correct sequence. I'm not going to go to section 3 until we deal with whether or not there will be a section 2.1.

Mr. Hatfield, if you have 42.1 in front of you?

Mr. Percy Hatfield: I have 42.1. I would have withdrawn it, had 41 passed, but I'll do 42.1.

I move that schedule 4 to the bill be amended by adding the following section:

“2.1 Section 228 of the Education Act is amended by adding the following subsection:

“Exception

“(1.1) Clause (1)(b) does not apply to vacate the office of a member of a board who is absent for 20

consecutive weeks or less if the absence is a result of the member's pregnancy, the birth of the member's child or the adoption of a child by the member.””

The Chair (Mr. Peter Tabuns): Committee members, I'm ruling this amendment out of order as it is, in my opinion, beyond the scope of the bill.

That takes us to government motion number 41. Mr. McMeekin.

Mr. Ted McMeekin: Do we need unanimous consent for this?

The Chair (Mr. Peter Tabuns): You have to move the motion first.

Mr. Ted McMeekin: Okay. I move that section 3 of schedule 4 to the bill be amended by adding the following subsections:

“(0.1) Subsection 170(1) of the Education Act is amended by adding the following paragraph:

“policy

“17.3 adopt and maintain policies with respect to pregnancy leaves and parental leaves of members of the board;”

“(0.2) Section 228 of the act is amended by adding the following subsection:

“Exception: pregnancy or parental leave

“(2.1) Clause (1)(b) does not apply to vacate the office of a member of a board who is absent for 20 consecutive weeks or less if the absence is a result of the member's pregnancy, the birth of the member's child or the adoption of a child by the member.””

The Chair (Mr. Peter Tabuns): Committee members, I am ruling this amendment out of order as it is, in my opinion, beyond the scope of the bill.

Mr. Lou Rinaldi: Chair?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: I would ask for unanimous consent to proceed with this, if we can,

The Chair (Mr. Peter Tabuns): Unanimous consent has been requested. Is there unanimous consent to proceed with this motion? Yes. Please proceed.

Mr. Lou Rinaldi: What this motion would do—we've heard from a number of stakeholders who expressed an interest in requiring school boards to have a policy regarding pregnancy and parental leave for their members, similar to what is proposed in Bill 68 for municipal councils.

In addition, the motion proposes that the offices of school board trustees would not be vacated due to absence related to pregnancy or parental leave, up to 20 consecutive weeks, to align with proposed provisions for municipal council members.

These proposals are an important step toward removing barriers to participation in local government and school boards. This is giving school boards the same rules as for municipal councils.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hatfield.

Mr. Percy Hatfield: A hell of an idea; I'm glad it's there. I thought I just proposed it, and it was ruled out of order. But, hey—

Mr. John Fraser: You didn't ask for unanimous consent.

Mr. Percy Hatfield: No, that's right, because I was advised by Mr. Rinaldi that he was going to ask for unanimous consent. I wouldn't want to steal his thunder to any great degree, other than to say that it's about time that we can finally agree on something. I know that you wouldn't accept it from the opposition, so we'll accept it from the government—and that's fine. At the end of the day, we're going to have something in there that should have been in there all along.

When I first approached the minister about this, he said, if I correctly remember, “Yes, we talked about that,” and there was a good reason for not putting it in, but I can't remember at this time what it was.

It's in there now; it has unanimous consent. Maybe he was thinking that he would need unanimous consent, and that was the reason it wasn't in there. But it makes so much sense that unanimous consent is necessary.

Earlier on, Chair, as you know, we argued for 24 weeks instead of 20. But in the interest of compromise, I'll certainly agree with 20 weeks, to move this forward. Maybe at some time in the future, we'll be able to lead Canada and not follow other provinces with their 20, and we'll get to 24. Thank you.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I just want to clarify a couple of things. One is that, obviously, this is the same motion that we've been dealing with in the other parts of the bill. We have put forward amendments to go to 24 weeks from the 20 being proposed in this motion.

A question to the Clerk or to legislative counsel: When you get unanimous consent—obviously, Mr. Hatfield's motion was ruled out of order, because that section of the act was not open. Now that we have unanimous consent to open that part of the act, do we have the consent to use that opening for other motions that could fit that same section of the act?

The Chair (Mr. Peter Tabuns): Mr. Clerk.

The Clerk of the Committee (Mr. Katch Koch): The unanimous consent was given to open that section of the act.

Mr. Ernie Hardeman: The question is, up until the opening, the next motion, which deals with extending the 20 weeks to 24 weeks, would have been considered out of order. But now, because that section has been opened with unanimous consent, that motion would be in order?

Interjections.

The Chair (Mr. Peter Tabuns): We're now out of time, so you'll answer tomorrow.

Members of the committee, we've come to end of the day. We adjourn until tomorrow at 4 p.m.

The committee adjourned at 1759.

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